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Security Council

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Letter dated 21 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Malta, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-71822 (E) 020102 070102

Annex

[Original: English]

Note verbale dated 21 December 2001 from the Permanent Mission of Malta to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Mission of Malta to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to forward the report by the Government of Malta to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001, with appendices (see enclosure).

Enclosure

Report to the Counter-Terrorism Committee pursuant to paragraph 6 of the Security Council resolution 1373 (2001) of 28 September 2001

Malta

Malta is fully committed to co-operating with the United Nations, its Member States, and particularly with the Counter-Terrorism Committee established by the Security Council pursuant to resolution 1373 to combat international terrorism. Malta is taking all appropriate actions to implement Security Council resolution 1373 and all the other relevant legal instruments against international terrorism.

Malta is a State-Party to all the global anti-terrorism treaties that are in force except for the IAEA Convention on the Physical Protection of Nuclear Material. Malta is also a party to the European Convention on the Suppression of Terrorism as well as the European Convention on Extradition, the Additional Protocol to the European Convention on Extradition, the Second Additional Protocol to the European Convention on Extradition, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, and the European Convention on Mutual Assistance in Criminal Matters. Malta has also signed the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters with a view to ratification in the near future.

Further comments in relation to the specific questions posed by the counter-Terrorism Committee:

Operative Paragraph 1

Sub-paragraph (a) - What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1 (b) to (d)

Resolution 1267 (1999) of 15 October 1999, which imposed a freeze of funds directly or indirectly owned or controlled by the Taliban, was implemented by Legal Notice No 214 (1999) published in the Government Gazette of 21 December 1999.

Resolution 1333 (2000) of 19 December 2000, which demanded to freeze without delay funds and other financial assets of Usama bin Laden and individuals and entities associated with him, was implemented by Legal Notice No. 22\92001, published in the Government Gazette of 16 February 2001, implemented this resolution.

A list of persons or entities drawn up by the Committee established in terms of paragraph 6 of resolution 1267 (1999) was published in the Government Gazette dated 12 October 2001 (Government Notice No 847). This list is a consolidated list based on the following documents issued by the UNSC Committee concerning Afghanistan:

AFG/131 SC/7028 of 8 March 2001
AFG/150 SC/7166 of 8 October 2001
AFG/142 SC/7124 of 20 August 2001

Furthermore an additional list was published in Government Gazette No: 17157 of 2 November 2001 (G.N. 910) which contained the list published in the Press Releases issued by the Security Council SC/7180, SC/7181 dated 19 October 2001.

Government Notice No. 967 published in the Government Gazette No. 17163 of 20 November 2001, listed the entities and individuals as indicated in SC Press Release SC/7206.

Towards the end of November 2001 the UN Afghanistan Sanctions Committee issued a consolidated list of entities/individuals whose assets are to be frozen (SC/7222 dated 26 November 2001). This list was published in the Government Gazette No.17175 of 14 December 2001 (GN1029).[1]

All lists, including updates, are sent regularly to the Central Bank of Malta, which in turn issues a circular to all credit and financial institutions in Malta.

Financial and credit institutions in Malta have been directed to scrutinise their records and provide the authorities with any information of any nature which may be related to individuals and organisations in question.

In turn, the Malta Financial Services Centre (MFSC) and other financial services regulators have requested operators within their sector to verify their records for the names of individuals and organisations indicated in the government notices and for any information, transaction or connection whatsoever relating to the individuals and organisations in question. Financial operators have been required to inform their regulators without delay should they identify any such information. The operators falling under the MFSC's jurisdiction are those in the investment services sector, the insurance sector and the offshore banks present in Malta.

A copy of circular issued by the Malta Financial Services Centre to all licence holders on 28 September 2001 is attached.[2]

Notices to MFSC Licence Holders have also been published on the website of the Malta Financial Services Centre (www.mfsc.com.mt) and of the Registry of Companies (http://Registry.mfsc.com.mt) on 28 September, 2001 and on 12 October, 2001.[3]

Customs also plays an important role in preventing and suppressing the financing of terrorist acts as it controls outgoing and incoming cash carried by departing and arriving passengers. Suspicious movements of considerable amounts of cash is reported to the Police when it is incoming. Outgoing cash is subject to investigation, and legal action is taken when the transaction is unauthorised. Furthermore scrutiny of customs documents ensures that any attempt of money laundering, which could be used as a means of financing terrorist activity, is detected and enforcement action taken.

[1] See appendix I.
[2] See appendix II.
[3] See appendix III.

Sub-paragraph (b) - What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?
Sub-paragraph (d) – What measures exist to prohibit the activities listed in this sub-paragraph?

There is, as yet, no definition of "terrorism" or "terrorist acts" in the Maltese Criminal Code. However, terrorist acts are generally punishable under the current Criminal Code though not as terrorist acts as such. However, the act of making any funds, financial assets, or economic resources or financial or other related services available for the benefit of persons involved in the commission of any crime punishable under the Criminal Code, is punishable as such under the same code.

Sub-paragraph (c) - What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

In terms of anti-money laundering legislation it is possible to freeze assets of persons suspected with money laundering activities. Such freezing is obtained by means of a Court order following a request made by the Attorney General. Recognising the dangers of the use of the banking system for the financing of terrorist acts, but also conscious that current local legislation only requires banks to spontaneously report transactions that raise suspicion of money laundering, the Central Bank of Malta has on a number of occasions issued instructions to banks to monitor transactions which could be suspected of being linked to the financing of terrorism. In the eventuality of having such a suspicion, banks have been asked to contact the Central Bank to discuss on how best to proceed keeping in mind national and international interests in preventing and suppressing such financing. To date there has not been any reporting of such transactions.

Operative Paragraph 2

Sub-paragraph (a) - What legislation or other measures are in place to give effect to this sub-paragraph? In particular what offences in your country prohibit (a) recruitment to terrorist groups and (b) the supply of weapons to terrorists? What other measures help prevent such activities?

Currently, there is no entry in Maltese law which defines "terrorist groups". However the recruitment of such groups will be criminalized and punishable under a new law now being considered by the House of Representatives.

With regards to the supply of weapons, it should be pointed out that no weapons are manufactured in Malta. To date only sporting firearms can be imported in Malta, apart from antique firearms for collectors and air weapons. Any export or import of weapons has to be reported by the Police and possession of weapons is controlled by the Arms Ordinance.[4] According to this Ordinance, an individual requires a licence to keep or carry firearms and ammunition exception being made for persons in the Armed Forces of Malta or in the Malta Police Force.

Furthermore, Malta has recently joined the majority of other countries in setting up a regime for the control of exports of dual-use items and military equipment, as well as for the control of any related technology and the provision of technical assistance related to certain military-end uses. For this purpose, regulations have been recently published and will come into force on 1 January 2002. These regulations are in line with EU Council Regulation 1334/2000 and the EU Code of Conduct on arms export.

[4] See appendix IV.

By means of the Dual-Use Items (Export Control) Regulations 2001, an authorisation is required for the export of certain listed items, as well as for those items which are not listed if such items are intended to be used in connection with the development, production, handling, operation, maintenance, storage, detection, identification or dissemination of chemical, biological, or nuclear weapons, or of missiles capable of delivering such weapons. The regulations also cover the transfer of software and technology for any of the uses mentioned above by means of any electronic means. In addition, an authorisation is also required for the provision of technical assistance relating to a military-end use, if that assistance is provided in countries of destination subject to an arms embargo decided by the EU Council, the OSCE or the UN Security Council.

The Military Equipment (Export Control) Regulations 2001, requires an authorisation for the export of conventional arms, weapons, ammunition, explosive material, toxic chemicals, micro-organisms, nuclear material and any other military equipment.

Sub-paragraph (b) – **What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?**

The Maltese Security Forces and the Malta Security Services are fully committed to prevent the commission of terrorist acts as such, and sharing of intelligence with other foreign services on bilateral or multilateral basis is continuous.

During the last Regional Liaison Intelligence Officers meeting held in Oslo, Norway in November 2001, it was agreed that all information which is available to Customs and which, in the opinion of the holding officer, may in any way be relative to terrorist acts, is transmitted to the RILO office in the region through the Customs Enforcement Network (CEN) of the World Customs Organisation. Malta has agreed to contribute to this information sharing.

Customs stations have also been alerted of the possibility of illicit movement of weapons and hazardous materials, and equipment for the detection of such illicit activity is at the dispose not only of certain Customs stations but also of roving enforcement units. Recent additions to this equipment consist of X-ray machines (one of them mobile) for detecting weapons, explosives etc., and further additions to such equipment is envisaged for the future.

Sub-Paragraph (c) – **What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.**

Since there is currently no definition of "terrorism", "terrorist" or "terrorist act" in Maltese law, there is no specific law denying a safe haven to "terrorists" though many of the acts committed by terrorists are punishable under the current Criminal Code.

However, in practice, any person who is known to be involved in acts of terrorism would be refused entry into Malta and visas will be rejected where such persons are identified. Such a person may also be declared a prohibited immigrant under the provisions of the Immigration Act.[5]

[5] See answer to Operative Paragraph 3 Sub-paragraph (f) & (g)

Sub-Paragraph (d) - What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken.
Sub-Paragraph (e) - What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

As already stated, even though the Maltese Criminal Code contains no definition of "terrorist acts", acts of violence usually linked to terrorism are dealt with as criminal offences in sections 311 to 328 of the Criminal Code, under the sub-title 'Of Crimes against the Public Safety and of Injury to Property"

Furthermore section 5 of the Criminal Code concerning jurisdiction of the Maltese Courts makes special provision for the extension of jurisdiction over certain criminal offences committed against internationally protected persons, even when such offences are committed outside Malta.

Sub-Paragraph (f) - What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.

Assistance to other states may be submitted through Interpol channels or else directly to other services where bilateral co-operation has been established. This may also be delivered to certain states with which bilateral agreements have been signed. Assistance may also be extended to judicial assistance, such as rogatory letters etc. Moreover Malta has also signed the European Convention on Extradition of the 15 December 1957 which was also ratified and came into force on 17 June 1996.

Sub-Paragraph (g) : How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?

As an island situated in a small, yet extremely busy sea, Malta's approaches from other Mediterranean coastal states converge from all directions. The Armed Forces of Malta units carry out continuous surface patrolling and frequent aerial surveillance both inshore and offshore. Offshore patrolling by large surface vessels is also carried out regularly. The Armed Forces of Malta is also responsible for control of merchant shipping entering and leaving the Grand Harbour.

The Immigration Service is also involved in preventing movement of terrorists. A computerised system of port entries contains the details of known terrorists who are brought to the notice of the Public Service in Malta. Each and every arriving passenger is checked against this system to secure the detection and arrest of fugitive terrorists, when these are discovered. New Maltese passports with the most sophisticated security features, which include digitised photographs, have been introduced in Malta. These passports are extremely difficult to forge.

The Malta Police is responsible for Immigration and State Security functions at the Airport, and the maintenance of public law and order. Immigration and Security Police are responsible for the checking of passengers for identification of possible terrorist suspects and their arrest. The Police Special Assignment Group (SAG) also provides an armed force of anti-terrorist trained men to participate in any action requiring their intervention.

Malta International Airport plc (MIA) has the responsibility of providing personnel for the screening of passengers, hand luggage, and hold baggage at the airport. As MIA plc is also a security organisation, it has the responsibility of protecting its property, and in the events or findings that indicate a possible threat to aviation security, they are responsible to notify the Manager Airport Security, Armed Forces of Malta or the Police.

Operative Paragraph 3

Sub-paragraph (a) – What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

Constant action is taken to establish close contact and co-operation with other foreign Police and Security Services in order to intensify co-operation and, if necessary, accelerate exchange of operational information. Malta has also been affiliated to Interpol since the early seventies and has established various contacts that would ensure the exchange of information in areas as required. Malta is also in the process of negotiating a co-operation agreement with Europol, which would enhance exchange of operational information.

Furthermore, Customs information networks, which of course includes the Maltese Customs Administration, have been placed at the disposal of Anti Terrorist Units world-wide.

Sub-paragraph (b) - What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

Malta has increased contacts with foreign squads, especially those who have liaison officers posted in Malta, and the co-operation related to this area has increased significantly during the last weeks.

Sub-paragraph (c) – What steps have been taken to co-operate in the areas indicated in this sub-paragraph?

At meetings of the International Maritime Organisation (IMO), particularly the 21st Extraordinary Session of the IMO Council and the 22nd Regular Session of the IMO Assembly, Malta actively supported the initiative of the IMO Secretary-General which inter-alia recognised the need for IMO to review, with the intent to revise, existing, and consider new, appropriate international legal and technical measures to prevent and suppress terrorism against ships and improve security abroad and ashore.

Sub-Paragraph (d) : What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this paragraph?

On 20 November, 2001 Malta acceded to the International Convention against the Taking of Hostages, the International Convention for the Suppression of Terrorist Bombings, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 1988. On the same day, Malta also ratified the International Convention for the Suppression of the Financing of Terrorism. Furthermore, Malta is also a party to all the global legal instruments against international terrorism that are in force except for the IAEA Convention on Physical Protection of Nuclear Material which Malta hopes to become a State Party to in the near future.

Sub-Paragraph (e) : Provide any relevant information on the implementation of the conventions, protocols, and resolutions referred to in this sub-paragraph.

Certain provisions of the international treaties referred to in operative paragraph 3 sub-paragraph (d) have already been transposed into Maltese law. As to the other provisions, Maltese law is expected to be amended shortly so that Malta will be in full conformity with these international treaties. The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988 and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 1988 will be transposed into Maltese Law and will be fully implemented in Malta by the 20 February, 2002.

Sub-Paragraph (f) : What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.
Sub-Paragraph (g) : What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedure which prevent claims of political motivation being recognised as grounds for refusing request for the extradition of alleged terrorists. Please supply examples of any relevant cases.

Malta's Refugees Act[6] was enacted in the year 2000 and came into force on 1st October 2001. The Act excludes from obtaining refugee status persons with respect to whom there are serious reasons for considering that such person:

(a) has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
(b) has committed a serious non-political crime outside Malta prior to his arrival in Malta; or (c) has been guilty of acts contrary to the purposes and principles of the United Nations.

According to the Refugees Act, it is up to the Refugee Commissioner to recommend whether a person fulfils the criteria for recognition of refugee status.

The Refugees Act empowers the Refuge Commissioner to ensure as far as possible that the application of the Act is in conformity with accepted international practice, and for this purpose may seek the assistance of the United Nations High Commissioner for Refugees or of any national and international non-governmental body concerned with refugee matters.

The Refugee Commissioner is well aware that the exclusion clause in Article 1 F (a) of the 1951 Convention relating to the Status of Refugees (to which Malta is also a Party) is also applicable to persons who have committed crimes within the framework of various non-governmental groupings, whether officially recognised, clandestine or self styled.

To date the Malta Police has not encountered any cases where foreigners who applied for refugee status where discovered to have been on any indices for being involved in any activities related to terrorism. The record system is being enhanced since fingerprints are now being taken from applicants for refugee status.

[6] See appendix V.

List of appendices

I. Government Notice 1029
II. Circular issued by Malta Financial Services Centre (MFSC)
III. Notice to MFSC Licence Holders
IV. Arms Ordinance
V. Refugees Act

Appendix I

NOTIFIKAZZJONIJIET TAL-GVERN

Nru. _____

ATT DWAR POTERI LI JSIRU REGOLAMENTI FL-INTERESS NAZZJONALI (KAP.365)

Regolamenti ta' l-1999 dwar Sanzjonijiet tan-Nazzjonijiet Uniti fir-Rigward tat-Taliban

GHALL-finijiet tar-Regolamenti ta' l-1999 dwar Sanzjonijiet tan-Nazzjonijiet Uniti fir-rigward tat-Taliban, (Avvi] Legali Nru. 214 ta' l-1999) u aktar mal-listi ta' persuni jew entitajiet elenkati mill-Kumitat stabbilit skond il-paragrafu 6 tar-Ri]oluzzjoni 1267 (1999) u aktar mal-paragrafu 8 (c) tar-Rizoluzzjoni 1333 (2000), ppubblikati fl-Avvi] Legali msemmi hawn aktar qabel, qieghda ti;i ppublikata l-lista konsolidata li ;ejja, liema lista tissostitwixxi kull lista pre/edenti ppublikata fin-Notifikazzjonijiet tal-Gvern Nru. 847 tat-12 ta' Ottubru, 2001, Nru.910 tat-2 ta' Novembru, 2001 u Nru. 967 ta' l-20 ta' Novembru, 2001, u dan g[all-informazzjoni tal-pubbliku:-

GOVERNMENT NOTICE

No._____

NATIONAL INTEREST (ENABLING POWERS) ACT (CAP. 365)

United Nations Sanctions (Taliban) Regulations, 1999

FOR the purposes of the United Nations Sanctions (Taliban) Regulations 1999, (Legal Notice No. 214 of 1999) and further to the lists of persons or entities drawn up by the Committee established in terms of paragraph 6 of Resolution 1267 (1999) and further to paragraph 8 (c) of Resolution 1333 (2000), published in the said Legal Notice, the following consolidated list, which supersedes all previous lists published in Government Notices No.847 of the 12th October, 2001, No.910 of the 2nd November, 2001, and No.967 of 20 November, 2001, is hereby being published for general information:-

A. Resolution 1267 (1999)

Individuals:

Mullah Mohammad Rabbani, Chairman of the Ruling Council, Head of the Council of Ministers;
Mullah Hadji Mohammad Hassan, First Deputy, Council of Ministers; Governor of Kandahar;
Maulavi Abdul Kabir, Second Deputy, Council of Ministers; Governor of Nangahar Province; Head of Eastern Zone;
Mullah Mohammed Omar, Leader of the Faithful ('Amir ul-Mumineen'), Afghanistan
Mullah Mohammad Tahre Anwari, Administrative Affairs;
Maulavi Sayyed Haqqan, Minister of Administrative Affairs;
Maulavi Abdul Latif Mansur, Minister of Agriculture;
Mullah Shams-ur-Rahman, Deputy Minister of Agriculture;
Maulavi Attiqullah Akhund, Deputy Minister of Agriculture

Maulavi Abdul Ghafoor, Deputy Minister of Agriculture;
Akhta Mohammad Mansour, Minister of Civil Aviation and Transportation;
Hadji Tahis, Deputy Minister of Civil Aviation;
Mullah Mohammad Naim, Deputy Minister of Civil Aviation;
Hidayatullah Abu Turab, Deputy Minister of Civil Aviation;
Mullah Yar Mohammad Rahimi, Minister of Communication;
Mullah Haji Alla Dad Tayeb, Deputy Minister of Communication;
Maulavi Abdul Razaq, Minister of Commerce;
Maulavi Faiz Mohammad Faizan, Deputy Minister of Commerce;
Maulavi Nik Mohammad, Deputy Minister of Commerce;
Mullah Matiullah, Kabul Custom House;
Maulavi Dadullah Akhund, Minister of Construction;
Mullah Hadji Ubaidullah Akhund, Minister of Defence;
Muliah Fazel M. Mazloom, Deputy Chief of Army Staff;
Muilah Baradar, Deputy, Minister of Defence;
Mullah Abdul Rauf, Commander of Central Corpus;
Mullah Amir Khan Motaqi, Minister of Education;
Mullah Mohammad Nasim Hanafi, Deputy Minister of Education;
Maulavi S. Ahmed Shahidkhel, Deputy Minister of Education;
Mullah Abdul Wasay Aghajan Motasem, Minister of Finance;
Mullah Arefullah Aref, Deputy Minister of Finance;
Mullah Haji M. Ahmadi, President of Da Afghanistan Bank;
Abdul Wakil Mutawakil, Minister of Foreign Affairs;
Abdul Rahman Zahed; Deputy Minister of Foreign Affairs;
Mullah Abdul Jalil, Deputy Minister of Foreign Affairs
Dr. Abdul Satar Paktis, Protocol Dept., Ministry of Foreign Affairs;
Maulavi Faiz, Information Dept., Ministry of Foreign Affairs;
Shams-us-Safa Aminzai, Press-Centre, Ministry of Foreign Affairs;
Maulavi Abdul Baqi, Consulate Dept., Ministry of Foreign Affairs;
M. Jawaz Waziri, UN Dept., Ministry of Foreign Affairs;
Maulavi Djallalouddine Haqani, Minister of Frontier Affairs;
Maulavi Abdul Hakim Monib, Deputy Minister of Frontier Affairs;
Alhaj M. Ibrahim Omari, Deputy Minister of Frontier Affairs;
Qari Din Mohammad, Minister of Higher Education;
Maulavi Hamidullah Nomani, High Ranking Official in the Ministry of Higher Education;
Zabihullah Hamidi, Deputy Minister of Higher Education;
Maulavi Arsalan Rahmani, Deputy Minister of Higher Education;
Maulavi Qudratullah Jamal, Minister of Information;
Mullah Abdul Baqi, Vice-Minister of Information and Culture;
Maulavi Abdul Rahman Ahmad Hottak, Deputy (Cultural) Minister of Information and Culture;
Maulavi Rahimullah Zurmati, Deputy (Publication) Minister of Information and Culture;
Abdulhai Motmaen, Information and Culture Dept., Kandahar;
Maulavi Mohammad Yaqoub, Head of BIA;
Mullah Abdul Razaq, Minister of Interior Affairs;
Mullah Abdul Samad Khaksar, Deputy (Security) Minister of Interior Affairs;
Mohammad Sharif, Deputy Minister of Interior Affairs;
Maulavi Noor Jalal, Deputy (Administrative) Minister of Interior Affairs;
Maulavi Saed M. Azim Agha, Passport and Visa Dept;

Mullah Nooruddin Turabi, Minister of Justice;
Maulavi Jalaluddine Shinwari, Deputy Minister of Justice;
Alhaj Mullah Mohammad Essa Akhund, Minister of Mines and Industries;
Maulavi Sayeedur Rahman Haqani, Deputy Minister of Mines and Industries;
Mullah Abdul Salam Zaief; Deputy Minister of Mines and Industries;
Maulavi Mohammad Azam Elmi, Deputy Minister of Mines and Industries;
Qari Din Mohammad Hanif, Minister of Planning;
Maulavi Ezatullah, Deputy Minister of Planning;
Maulavi M. Musa Hottak, Deputy Minister of Planning;
Mullah Mohammad Abbas Akhund, Minister of Public Health;
Sher Abbas Stanekzai, Deputy Minister of Public Health;
Maulavi Mohammadullah Mati, Minister of Public Works;
Maulavi Rostam Nuristani, Deputy Minister of Public Works;
Hadji Molla Atiqullah, Deputy Minister of Public Works;
Maulavi Najibullah Haqqani, Deputy Minister of Public Works;
Maulavi Sayyed Ghiassouddine Agha, Minister of Haj and Religious Affairs
Maulavi Moslim Haqqani, Deputy Minister of Haj and Religious Affairs;
Maulavi Qalamudin Momand, Deputy Minister of Haj Affairs;
Maulavi Abdul Raqib Takhari, Minister of Repatriation;
Ramatullah Wahidyar, Deputy Minister for Martyrs and Repatriation;
Mohammad Sediq Akhundzada, Deputy Minister of Martyrs and Repatriation;
Maulavi Mohammad Wali, Minister of Department of Preventing Vice and PropagatingVirtue;
Maulavi Mohammad Salim Haqqani, Deputy Minister of Preventing Vice and Propagating Virtue;
Maulavi Sayed Esmatullah Asem, Deputy Minister of Preventing Vice and Propagating Virtue;
Qari Ahmadulla, Minister of Security (Intelligence);
Maulavi Abdul-Haq-Wasseq, Deputy Minister of Security (Intelligence);
Maulavi Ehsanullah, Deputy Minister of Security (Intelligence);
Mullah Habibullah Reshad, Head of Investigation Dept.;
Mullah Ahmed Jan Akhund, Minister of Water and Electricity;
Eng. Mohammad Homayoon, Deputy Minister of Water and Electricity;
Maulavi Saiduddine Sayyed, Vice-Minister of Work and Social Affairs;
Maulavi Abdul Jabbar, Governor of Baghlan Province;
Maulavi Nurullah Nuri, Governor of Balkh Province; Head of Northern Zone;
Muhammad Islam, Governor of Bamiyan Province;
Mullah Janan, Governor of Fariab;
Mullah Dost Mohammad, Governor of Ghazni Province;
Maulavi Khair Mohammad Khairkhwah, Governor of Herat Province;
Maulavi Abdul Bari, Governor of Helmand Province;
Maulavi Walijan, Governor of Jawzjan Province;
Mullah M. Hasan Rahmani, Governor of Kandahar Province;
Mullah Manan Nyazi, Governor of Kabul Province;
Maulavi A. Wahed Shafiq, Deputy Governor of Kabul Province;
Alhaj Mullah Sadudin Sayed, Mayor of Kabul City;
Maulavi Shafiqullah Mohammadi, Governor of Khost Province;
Maulavi Nazar Mohammad, Governor of Kunduz Province;
M. Eshaq, Governor of Laghman Province;
Maulavi Zia-ur-Rahman Madani, Governor of Logar Province;
Maulavi Hamsudin, Governor of Wardak (Maidan) Province;

Maulavi A. Kabir, Governor of Nangarhar Province;
Mullah M. Rasul, Governor of Nimroz Province;
Maulavi Tawana, Governor of Paktia Province;
Mullah M. Shafiq, Governor of Samangan Province;
Maulavi Aminullah Amin, Governor of Saripul Province;
Maulavi Abdulhai Salek, Governor of Urouzgan Province;
Maulavi Ahmad Jan, Governor of Zabol Province;
Noor Mohammad Saqib, Chief Justice of Supreme Court;
Maulavi Sanani, Head of Dar-ul-Efta;
Maulavi Samiullah Muazen, Deputy of High Court;
Maulavi Shahabuddin Delawar, Deputy of High Court;
Abdul Rahman Agha, Chief Justice of Military Court;
Mullah Mustasaed, Head of Academy of Sciences;
Maulavi Esmatullah Asem, SG of Afghan Red Crescent Society (ARCS);
Maulavi Qalamuddin, Head of Olympic Committee;
Abdul Salam Zaeef, Taliban Ambassador to Pakistan;
Abdul Hakim Mujahid, Taliban envoy to the United Nations;
General Rahmatullah Safi, Taliban representative in Europe;
Mullah Hamidullah, Head of Ariana Afghan Airlines;
Alhaj Mullah Sadruddin, Mayor of Kabul City;
Amir Khan Muttaqi, Taliban representative in UN-led talks;
Mr Jan Mohmmad Madani, Charge d'Affaires, Taliban Embassy, Abu Dhabi;
Mr Shamsalah Kmalzada, Second Secretary, Taliban Embassy, Abu Dhabi;
Mr Azizirahman,Third Secretary, Taliban Embassy, Abu Dhabi;
Mr Mawlawi Abdul Manan, Commercial Attache, Taliban Embassy, Abu Dhabi
Malawi Abdul Wahab; Taliban Chargé d'Affaires in Riyadh,

Taliban "Embassy", Islamabad

Mullah Abdul Salam Zaeef (Ambassador Extraordinary & Plenipotentiary)
Habibullah Fauzi (First Secretary/Deputy Head of Mission)
Mohammad Sohail Shaheen (Second Secretary)
Mohammad Sarwar Siddiqmal (Third Secretary)
Mullah Mohammad Zahid (Third Secretary)
General Abdul Qadeer (Military Attache)
Maulavi Nazirullah Anafi (Commercial Attache)
Maulavi Abdul Ghafar Qurishi (Repatriation Attache)
Mohammad Daud (Administrative Attache)

Taliban "Consulate General", Peshawar

Maulavi Najibullah (Consul General)
Qari Abdul Wali (First Secretary)
Syed Allamuddin (Second Secretary)
Maulavi Akhtar Mohammad (Education Attache)
Alhaj Maulavi Mohammad Saddiq (Trade Representative)

Taliban "Consulate General", Karachi

Maulavi Rahamatullah Kakazada (Consul General)
Mufti Mohammad Aleem Noorani (First Secretary)
Haji Abdul Ghafar Shenwary (Third Secretary)
Maulavi Gul Ahmad Hakimi (Commercial Attache)

Taliban "Consulate General", Quetta

Maulavi Abdullah Murad (Consul General)
Maulavi Abdul Haiy Aazem (First Secretary)
Maulavi Hamdullah (Repatriation Attache)

Entities:

Account of Ariana Afghan Airlines in Citibank, New Delhi, India
Account of Ariana Afghan Airlines in Punjab National Bank, New Delhi, India
Afghan Export Bank
Agricultural Development Bank of Afghanistan (ADB), United Kingdom
Ariana Afghan Airlines (formerly known as Bakhtar Afghan Airlines), Afghan Authority Building, P.O. Box 76, Ansari Watt, Kabul, Afghanistan, and any other offices of Ariana Afghan Airlines;
Banke Millie Afghan (a.k.a. Afghan National Bank; a.k.a. Bank E. Millie Afghan), Jada Ibn Sina, Kabul, Afghanistan, and any other offices of Banke Millie Afghan;
Da Afghanistan Bank (a.k.a. Bank of Afghanistan; a.k.a. Central Bank of Afghanistan; a.k.a.The Afghan State Bank, Ibni Sina Wat, Kabul, Afghanistan, and any other offices of Da Afghanistan Bank;
De Afghanistan Momtaz Bank
Export Promotion Bank of Afghanistan

B. Resolution 1333 (2000)

Individuals:

Abd Al-Hadi Al-Iraqi (a.k.a. Abu Abdallah, Abdal Al-Hadi Al-Iraqi)

Abdul Rahman Yasin (A.K.A. Taha, Abdul Rahman S.; A.K.A. Taher, Abdul Rahman S.; A.K.A. Yasin, Abdul Rahman Said; A.K.A. Yasin, Aboud); DOB: 10 Apr 1960; POB: Bloomington, Indiana U.S.A.; SSN 156-92-9858 (U.S.A.); Passport No. 27082171 (U.S.A. (Issued 21 Jun 1992 In Amman, Jordan)); Alt. Passport No. MO887925 (Iraq); Citizen U.S.A.

Abdullah Ahmed Abdullah (A.K.A. Abu Mariam; A.K.A. Al-Masri, Abu Mohamed; A.K.A. Saleh) ; Afghanistan; DOB: 1963; POB: Egypt; Citizen Egypt

Abdullkadir, Hussein Mahamud, Florence, Italy.

Abu Hafs the Mauritanian (a.k.a. Mahfouz Ould Al-Walid, Khalid Al-Shanqiti, Mafouz Walad Al-Walid, Mahamedou Ouid Slahi). DOB 1 Jan 75.

Abu Zubaydah (a.k.a. Abu Zubaida, Abd Al-Hadi Al-Wahab, Zain Al-Abidin Muhahhad Husain, Zain Al-Abidin Muhahhad Husain, Zayn Al-Abidin Muhammad Husayn, Tariq). Thought to be a Saudi, Palestinian and Jordanian national. Close associate of UBL and facilitator of terrorist travel. DOB 12 March 71. POB Riyadh, Saudi Arabia.

Aden, Abdirisak; Akaftingebacken 8, 163 67 Spanga, Sweden;
DOB 01 June 1968

Agha, Haji Abdul Manan (A.K.A. Saiyid, Abd Al-Man, Am) Pakistan;

Ahmed Khalfan Ghailani (A.K.A. "Ahmed The Tanzanian"; A.K.A. "Foopie"; A.K.A. "Fupi"; A.K.A. Ahmad, Abu Bakr; A.K.A. Ahmed, A; A.K.A. Ahmed, Abubakar; A.K.A. Ahmed, Abubakar K.; A.K.A. Ahmed, Abubakar Khalfan; A.K.A. Ahmed, Abubakary K.; A.K.A. Ahmed, Ahmed Khalfan; A.K.A. Al Tanzani, Ahmad; A.K.A. Ali, Ahmed Khalfan; A.K.A. Bakr, Abu; A.K.A. Ghailani, Abubakary Khalfan Ahmed, A.K.A. Ghailani, Ahmed; A.K.A. Ghilani, Ahmad Khalafan; A.K.A. Hussein, Mahafudh Abubakar Ahmed Abdallah; A.K.A. Khabar, Abu; A.K.A. Khalfan, Ahmed; A.K.A. Mohammed, Shariff Omar); DOB: 14 Mar 1974; Alt. DOB: 13 Apr. 1974; Alt. DOB: 14 Apr. 1974; Alt. DOB: 1 Aug. 1970; POB: Zanzibar, Tanzania; Citizen Tanzania.

Ahmed Mohammed Hamed Ali (A.K.A. Abdurehman, Ahmed Mohammed; A.K.A. Abu Fatima; A.K.A. Abu Islam; A.K.A. Abu Khadiijah; A.K.A. Ahmed Hamed, A.K.A. Ahmed The Egyptian; A.K.A. Ahmed, Ahmed; A.K.A. Al-Masri, Ahmad; A.K.A. Al-Surir, Abu Islam; A.K.A. Ali, Ahmed Mohammed; A.K.A. Ali, Hamed; A.K.A. Hemed, Ahmed; A.K.A. Shieb, Ahmed; A.K.A. Shuaib); Afghanistan; DOB: 1965; POB: Egypt; Citizen Egyp.

Al-Hamati, Muhammad (A.K.A. Al-Ahdal, Mohammad Hamdi Sadiq; A.K.A. Al-Makki, Abu Asim), Yemen.

Al-Haq, Amin (A.K.A. Amin, Muhammad; A.K.A. Ah Haq, Dr. Amin; Ul-Haq, Dr. Amin); DOB: 1960; POB: Nangahar Province, Afghanistan. Afghan national. Security coordinator for UBL.

Ali, Abbas Abdi, Mogadishu, Somalia

Ali, Abdi Abdulaziz, Drabantvagen 21, 177 50 Spanga, Sweden; DOB 01 January 1955

Ali, Yusaf Ahmed, Hallbybybacken 15, 70 Spanga, Sweden; DOB: 20 November 1974

Al-Jadawi, Saqar; DOB: 1965. Thought to be a Yemeni and Saudi national. Aide to UBL.

Al-Kadr, Ahmad Sa'id (A.K.A. Al-Kanadi, Abu Abd Al-Rahman); DOB: 01 March 1948; POB: Cairo, Egypt. Thought to be an Egyptian and Canadian national.

Al-Qadi, Yasin (A.K.A, Kadi, Shaykh Yassin Abdullah; A.K.A. Kahdi, Yasin), Jeddah, Saudi Arabia.

Al-Sharif, Sa'd; DOB: 1969; POB: Saudi Arabia. Brother-in-law and close associate of UBL. Said to be head of UBL's financial organization.

Anas Al-Liby (A.K.A. Al-Libi, Anas; A.K.A. Al-Raghie, Nazih; A.K.A. Al-Raghie, Nazih Abdul Hamed; A.K.A. Al-Sabai, Anas), Afghanistan; DOB: 30 Mar 1964; Alt. DOB: 14 May 1964; POB: Tripoli, Libya; Citizen Libya

Aweys, Dahir Ubeidullahi, via Cipriano Facchinetti 84, Rome, Italy.

Aweys, Hassan Dahir (a.k.a. Ali, Sheikh Hassan Dahir Aweys) (a.k.a. Awes, Shaykh Hassan Dahir), DOB: 1935; Citizen:Somalia)

Ayman Al-Zawahari (A.K.A. Ahmed Fuad Salim; A.K.A Aiman Muhammed Rabi Al-Zawahiri). Operational and Military Leader of Jihad Group. Thought to be an Egyption national. Former leader of Egyption Islamic Jihad, now a close associate of UBL. DOB 19 Jun 1951; POB Giza, Egypt; Passport NO. 1084010 (Egypt); Alt NO. 19820215.

Bin Marwan, Bilal; DOB: 1947. Senior lieutenant of UBL.

Bin Muhammad, Ayadi Chafiq (A.K.A. Ayadi Shafiq, Ben Muhammad; A.K.A. Ayadi Chafik, Ben Muhammad; A.K.A. Aiadi, Ben Muhammad; A.K.A. Aiady, Ben Muhammad), Helene Meyer Ring 10-1415-80809, Munich, Germany; 129 Park Road, NW8, London, England; 28 Chausse Di Lille, Moscron, Belgium; Darvingasse 1/2/58-60, Vienna, Austria; Tunisia; DOB: 21 January 1963; POB: Safais (Sfax), Tunisia.

Darkazanli, Mamoun; Uhlenhorster Weg 34, Hamburg, 22085 Germany; DOB: August 4, 1958; POB: Aleppo, Syria; Passport No: 1310636262 (Germany).

Fahid Mohammed Ally Msalam (A.K.A. Al-Kini, Usama; A.K.A. Ally, Fahid Mohammed; A.K.A. Msalam, Fahad Ally; A.K.A. Msalam, Fahid Mohammed Ali; A.K.A. Msalam, Mohammed Ally; A.K.A. Musalaam, Fahid Mohammed Ali; A.K.A.
Salem, Fahid Muhamad Ali); DOB: 19 Feb 1976; POB: Mombasa, Kenya; Citizen Kenya.

Fazul Abdullah Mohammed (A.K.A. Abdalla, Fazul; A.K.A. Adballah, Fazul; A.K.A. Aisha, Abu; A.K.A. Al Sudani, Abu Seif; A.K.A. Ali, Fadel Abdallah Mohammed; A.K.A. Fazul, Abdalla; A.K.A. Fazul, Abdallah; A.K.A. Fazul, Abdallah Mohammed; A.K.A. Fazul, Haroon; A.K.A. Fazul, Harun; A.K.A. Haroon; A.K.A. Haroun, Fadhil; A.K.A. Harun; A.K.A. Luqman, Abu; A.K.A. Mohammed, Fazul; A.K.A. Mohammed, Fazul Abdilahi; A.K.A. Mohammed, Fouad; A.K.A. Muhamad, Fadil Abdallah); DOB: 25 Aug 1972; Alt. DOB: 25 Dec 1974; Alt. DOB: 25 Feb 1974; POB: Moroni, Comoros Islands; Citizen Comoros; Alt. Citizen Kenya.

Hijazi, Riad (A.K.A. Hijazi, Raed M.; A.K.A. Al-Hawen, Abu-Ahmad; A.K.A. Al-Maghribi, Rashid (The Moroccan); A.K.A. Al-Amriki, Abu-Ahmad (The American); A.K.A. Al-Shahid, Abu-Ahmad), Jordan; DOB: 1968; POB: California, U.S.A.; SSN: 548-91-5411.

Himmat, Ali Ghaleb, via Posero 2, ch-6911 Campione D'Italia, Switzerland, DOB: 16 June 1938; POB: Damascus, Syria; citizenship: Switzerland and Tunisia

Huber, Albert Friedrich Armand (a.k.a. Huber, Ahmed), Mettmenstetten, Switzerland; DOB: 1927

Hussein, Liban, 925 Washington Street, Dorchester, Massachusetts; 2019 Bank Street, Ontario, Ottawa, Canada

Ibn Al-Shaykh Al-Libi

Jama, Garad (a.k.a. Nor, Garad K.) (a.k.a. Wasrsame, Fartune Ahmed), 2100 Bloomington Avenue, Minneapolis, Minnesota; 1806 Riverside Avenue, 2nd floor, Minneapolis, Minnesota; DOB: 26 June 1974

Jim'ale, Ahmed Nur Ali (a.k.a. Jimale, Ahmed Ali) (a.k.a. Jim'ale, Ahmad Nur Ali) (a.k.a. Jumale, Ahmed Nur) (a.k.a. Jumali, Ahmed Ali), P.O. Box 3312, Dubai, UAE; Mogadishu, Somalia

Kahie, Abdullahi Hussein, Bakara Market, Dar Salaam Buildings, Mogadishu, Somalia

Ladehyanoy, Mufti Rashid Ahmad (A.K.A. Ludhianvi, Mufti Rashid Ahmad; A.K.A. Armad, Mufti Rasheed; A.K.A. Wadehyanoy, Mufti Rashid Ahmad); Karachi, Pakistan.

Makhtab Al-Khidamat/ Al Kifah

Mansour, Mohamed, (a.k.a. Al-Mansour, Dr. Mohamed), ob. Heslibachstr. 20, Kusnacht, Switzerland; Zurich, Switzerland; DOB: 1928 POB: Egypt or UAE.

Mansour-Fattouh, Zeinab, Zurich, Switzerland.

Muhammed Atif (a.k.a. Subhi Abu Sitta, Abu Hafs Al Masri, Sheik Taysir Abdullah, Mohamed Atef, Abu Hafs Al Masri El Khabir, Taysir). DOB 1956; POB Alexandria, Egypt. Alt DOB 1951; Alt DOB 1944. Though to be an Egyptian national. Senior lieutenant to UBL.

Muhammad Salah (a.k.a. Nasr Fahmi Nasr Hasanayn)

Muhsin Musa Matwalli Atwah (A.K.A. Abdel Rahman; A.K.A. Abdul Rahman; A.K.A. Al-Muhajir, Abdul Rahman; A.K.A. Al-Namer, Mohammed K.A.), Afghanistan; DOB: 19 Jun 1964; POB: Egypt; Citizen Egypt.

Mustafa Mohamed Fadhil (A.K.A. Al Masri, Abd Al Wakil; A.K.A. Al-Nubi, Abu; A.K.A. Ali, Hassan; A.K.A. Anis, Abu; A.K.A. Elbishy, Moustafa Ali; A.K.A. Fadil, Mustafa Muhamad; A.K.A. Fazul, Mustafa; A.K.A. Hussein; A.K.A. Jihad, Abu; A.K.A. Khalid; A.K.A. Man, Nu; A.K.A. Mohammed, Mustafa; A.K.A. Yussrr, Abu); DOB: 23 Jun 1976; POB: Cairo, Egypt; Citizen Egypt; Alt. Citizen Kenya; Kenyan Id. No. 12773667; Serial No. 201735161.

Nada, Youssef, (a.k.a. Nada, Youssef M.) (a.k.a. Nada, Youssef Mustafa), via Arogno 32, 6911 Campione d'Italia, Italy; via per Arogno 32, ch-6911 Campione d'Italia, Switzerland; via Riasc 4, ch-6911 Campione d'Italia I, Switzerland; DOB: 17 May 1931 or 17 May 1937; POB: Alexandria, Egypt; citizen: Tunisia.

Sayf-Al Adl (a.k.a. Saif Al-'Adil), DOB 1963; POB Egypt. Thought to be an Egyptian national. Responsible for UBL's security.

Shaykh Sai'id (a.k.a. Mustafa Muhammad Ahmad). POB Egypt.

Sheikh Ahmed Salim Swedan (A.K.A. Ahmed The Tall; A.K.A. Ally, Ahmed; A.K.A. Bahamad; A.K.A. Bahamad, Sheik; A.K.A. Bahamadi, Sheikh; A.K.A. Suweidan, Sheikh Ahmad Salem; A.K.A. Swedan, Sheikh; A.K.A. Swedan, Sheikh Ahmed Salem); DOB: 9 Apr 1969; Alt. DOB: 9 Apr 1960; POB: Mombasa, Kenya; Citizen Kenya.

Tariq Anwar Al-Sayyid Ahmad (a.k.a. Hamdi Ahmad Farag, Amr Al-Fatih Fathi). DOB 15 March 63; POB Alexandria, Egypt.

Thirwat Salah Shihata (a.k.a. Tarwat Salah Abdallah, Salah Shihata Thirwat, Shahata Thirwat). DOB 29 Jun 60; POB Egypt.

Usama Bin Laden (a.k.a. Usama Bin Muhammed Bin Awad, Osama Bin Laden: A.K.A. Abu Abdallah Abd Al-Hakim). DOB 30 Jul 57; POB Jeddah, Saudi Arabia; Alt. DOB 28 Jul 57; Alt. POB Yemen. Saudi citizenship withdrawn, now officially and Afghan national.

Uthman, Omar Mahmoud (A.K.A. Al-Filistini, Abu Qatada; A.K.A. Takfiri, Abu Umr; A.K.A. Abu Umar, Abu Omar; A.K.A. Uthman, Al-Samman; A.K.A. Umar, Abu Umar; A.K.A. Uthman, Umar; A.K.A. Abu Ismail), London, England; DOB: 30 December 1960 or 13 December 1960.

Yuldashev, Tohir (A.K.A. Yuldashev, Takhir), Uzbekistan.

Zia, Mohammad (A.K.A. Zia, Ahmad); C/O Ahmed Shah C/O Painda Mohammad Al-Karim Set, Peshawar, Pakistan; C/O Alam General Store Shop 17, Awami Market, Peshawar, Pakistan; C/O Zahir Sha S/

Entities:

Aaran Money Wire Service Inc., 1806 Riverside Avenue, Second floor, Minneapolis, Minnesota

Abu Sayyaf Group (a.k a. Al Harakat Al Islamiyya)

Al Baraka Exchange L.L.C., P.O. BOX 3313 Deira Dubai, UAE; P.O. Box 20066, Dubai, UAE

Al-Barakaat, Mogadishu, Somalia; Dubai, UAE

Al-Barakaat Bank, Mogadishu, Somalia

Al-Barakat Bank Of Somalia (Bss) (A.K.A. Barakat Bank Of Somalia), Mogadishu, Somalia; Bossaso, Somalia

Al-Barakat Finance Group, Dubai, UAE; Mogadishu, Somalia

Al-Barakat Financial Holding Co. Dubai, UAE; Mogadishu, Somalia

Al-Barakat Global Telecommunications (A.K.A. Barakaat Globetelcompany), P.O. Box 3313, Dubai, UAE; Mogadishu, Somalia; Hargeysa, Somalia

Al-Barakat Group Of Companies Somalia Limited (A.K.A. Al-Barakat Financial Company), P.O. Box 3313, Dubai, UAE; Mogadishu, Somalia

Al-Barakat International (A.K.A. Baraco Co.), Box 2923, Dubai, UAE

Al-Barakat Investments, P.O. Box 3313, Deira, Dubai, UAE

Al-Barakaat Wiring Service, 2940 Pillsbury Avenue, Suite 4, Minneapolis, Minnesota 55408

Al-Hamati Sweets Bakeries, Al-Mukallah, Hadhramawt Governorate, Yemen.

Al-Itihaad Al-Islamiya / AIAI

Al-Jihad/ Egyptian Islamic Movement (a.k.a. Egyptian Al-Jihad, Egyptian Islamic Jihad, Jihad Group, New Jihad)

Al-Nur Honey Press Shops (A.K.A. Al-Nur Honey Center), Sanaa, Yemen.

Al Taqwa Trade, Property and Industry Company Limited, (F.K.A. Al Taqwa Trade, Property and Industry) (F.K.A. Al Taqwa Trade, Property and Industry Establishment) (F.K.A. Himmat Establishment), C/O Asat Trust Reg., Altenbach 8,9490 Vaduz Fl, Liechtenstein

Al Qa'ida/ Islamic Army (a.k.a. "The Base", Al Qaeda, Islamic Salvation Foundation, The Group for the Preservation of the Holy Sites, The Islamic Army for the Liberation of Holy Places, The World Islamic Front for Jihad Against Jews and Crusaders, Usama Bin Laden Network, Usama Bin Laden Organization).

Al Rashid Trust (a.k.a Al-Rasheed Trust).
Kitas Ghar, Nazimabad 4, Dahgel-Iftah, Karachi, Pakistan. Jamia Maajid, Sulalman Park, Melgium Pura, Lahore, Pakistan.
Office Dha'rbi-M'unin, Opposite Khyber Bank, Abbottabad Road, Mansehra, Pakistan.
Office Dha'rbi-M'unin ZR Brothers, Katcherry Road, Chowk Yadgaar, Peshawar, Pakistan.
Office Dha'rbi-M'unin, Rm No. 3, Moti Plaza, Near Liaquat Bagh, Muree Road, Rawalpindi, Pakistan.
Office Dha'rbi-M'unin, Top Floor, Dr. Dawa Khan Dental Clinic Surgeon, Main Baxae, Mingora, Swat, Pakistan.
Operations in Afghanistan: Herat Jalalabad, Kabul, Kandahar, Mazar Sherif. Also operations in Kosovo, Chechnya.

Al-Shifa, Honey Press For Industry And Commerce, P.O. Box 8089, Al-Hasabah, Sanaa, Yemen; By The Shrine Next To The Gas Station, Jamal Street, Ta'iz, Yemen; Al- Arudh Square, Khur Maksar, Aden, Yemen; Al-Nasr Street, Doha, Qatar.

Armed Islamic Group (a.k.a. Al Jamm'ah Al-Islamiah Al- Musallah, GIA, Groupement Islamique Armé)

Asat Trust Reg., Altenbach 8, 9490 Vaduz Fl, Liechtenstein

Asbat Al-Ansar

Bank Al Taqwa Limited (A.K.A. Al Taqwa Bank) (A.K.A. Bank Al Taqwa), P.O. Box N-4877, Nassau, Bahamas; C/O Arthur D. Hanna & Company, 10 Deveaux Street, Nassau, Bahamas
Barakaat Construction Company, P.O. Box 3313, Dubai, UAE

Barakaat Group Of Companies, P.O. Box 3313, Dubai, UAE; Mogadishu, Somalia

Barakaat International, Hallbybacken 15, 70 Spanga, Sweden

Barakaat International Foundation, Box 4036, Spanga, Stockholm, Sweden; Rinkebytorget 1, 04 Spanga, Sweden

Barakaat North America, Inc., 925 Washington Street, Dorchester, Massachusetts; 2019 Bank Street, Ottawa, Ontario, Canada

Barakaat Red Sea Telecommunications, Bossaso, Somalia; Nakhiil, Somalia; Huruuse, Somalia; Raxmo, Somalia; Ticis, Somalia; Kowthar, Somalia; Noobir, Somalia; Bubaarag, Somalia; Gufure, Somalia; Xuuxuule, Somalia; Ala Aamin, Somalia; Guureeye, Somalia; Najax, Somalia; Carafaat, Somalia

Barakaat Telecommunications Co. Somalia, Ltd., P.O. Box 3313, Dubai, UAE

Barakat Banks and Remittances, Mogadishu, Somalia; Dubai, UAE

Barakaat Boston, 266 Neponset Avenue, Apt. 43, Dorchester, Massachusetts 02122-3224

Barakat Computer Consulting (BCC), Mogadishu, Somalia

Barakat Consulting Group (BCG), Mogadishu, Somalia

Barakat Global Telephone Company, Mogadishu, Somalia; Dubai, UAE

Barakat Enterprise, 1762 Huy Road, Columbus, Ohio

Barakat International Companies (BICO), Mogadishu, Somalia; Dubai, UAE

Barakaat International, Inc., 1929 South 5th Street, Suite 205, Minneapolis, Minnesota

Barakat Post Express (BPE), Mogadishu, Somalia

Barakat Refreshment Company, Mogadishu, Somalia; Dubai, UAE

Barakat Telecommunications Company Limited (A.K.A. Btelco), Bakara Market, Dar Salaam Buildings, Mogadishu, Somalia; Kievitlaan 16, T'veld, Noord-Holland, The Netherlands

Barakaat Wire Transfer Company, 4419 South Brandon Street, Seattle, Washington

Barako Trading Company, LLC, P.O. Box 3313, Dubai, UAE

Baraka Trading Company, P.O. Box 3313, Dubai, UAE

Global Service International, 1929 5th Street, Suite 204, Minneapolis, Minnesota

Harakat Ul-Mujahidin / HUM (a.k.a. Al-Faran, Al-Hadid, Al-Hadith, Harakat Ul-Ansar, HUA, Harakat Ul- Mujahideen)

Heyatul Ulya, Mogadishu, Somalia

Islamic Army of Aden

Islamic Movement of Uzbekistan (a.k.a. IMU)

Jaish-I-Mohammed (A.K.A. Army of Mohammed), Pakistan.

Jam'yah Ta'awun Al-Islamia (A.K.A. Society of Islamic Cooperation) (A.K.A. Jam'iyat Al Ta'awun Al Islamiyya) (A.K.A. Jit), Qandahar City, Afghanistan.

Libyan Islamic Fighting Group

Mamoun Darkazanli Import-Export Company (a.k.a. Darkazanli Company, Darkazanli Export-Import Sonderposten). Uhlenhorsterweg 34 11 Hamburg, Germany

Nada Management Organization Sa (F.K.A. Al Taqwa Management Organization Sa), Viale Stefano Franscini 22, Ch-6900 Lugano Ti, Switzerland

Parka Trading Company, P.O. Box 3313, Deira, Dubai, UAE

Rabita Trust, Room 9a, 2nd Floor, Wahdat Road, Education Town, Lahore, Pakistan; Wares Colony, Lahore, Pakistan.

Red Sea Barakat Company Limited, Mogadishu, Somalia; Dubai, UAE

Salafist Group for Call and Combat/ GSPC (a.k.a. Le Groupe Salafiste Pour La Prediction et le Combat)

Somali Internet Company, Mogadishu, Somalia

Somali International Relief Organization, 1806 Riverside Avenue, 2nd Floor, Minneapolis, Minnesota

Somali Network Ab, Hallybybacken 15, 70 Spanga, Sweden

Wafa Humanitarian Organization (a.k.a. Al Wafa, Al Wafa Organization, Wafa Al-Igatha Al-Islamia). Jordan House No. 125, Street 54, Phase II Hayatabad, Peshawar, Pakistan. Offices in: Saudi Arabia, Kuwait, and UAE.

Youssef M. Nada, Via Riasc 4, Ch-6911 Campione D'italia I, Switzerland

Youssef M. Nada & Co. Gesellschaft M.B.H., Kaertner Ring 2/2/5/22, 1010 Vienna, Austria

Appendix II

28th September 2001

(Circular addressed to all MFSC Licence Holders)

Dear Sir,

Re: Investigations of International Terrorism

You are aware of the strong stand taken by the Maltese Government against the recent terrorist attacks in the USA and of the commitment expressed by the Government to fight international terrorism and to co-operate and collaborate with foreign authorities for this purpose. In fulfilling this commitment Malta is required to co-operate and assist in international investigations being carried out aimed at bringing to justice those responsible for terrorism and freezing their funds. Furthermore Malta must ensure that its business and financial sector is not used by terrorist organisations and consequently must act fast in order to block any such activity and to freeze any interests situated in Malta that may be linked to international terrorism.

The FBI has issued a list of names of alleged subjects under investigation by the FBI in connection with the recent terrorist attacks in the USA. The list is available on the MFSC website at http://www.mfsc.com.mt or directly from the FBI website at http://www.fbi.gov . Should you require, a copy of the list may also be forwarded to you.

Further to the above the MFSC has noted international and local media reports that a foreign company by the name of Al Taqwa Co. Limited / Al Taqwa Management Organisation, which allegedly may have interests in Malta, is being investigated by foreign authorities with regards to possible links with Usama Bin Laden.

The Malta Financial Services Centre therefore hereby directs all its licence holders to immediately verify their records for the names of the individuals on the list and for the names of the above mentioned entities or for any information, transaction or connection whatsoever, in whatever form, whether direct or indirect, relating to the individuals and entities in question. Licence holders are hereby required to inform without delay the Malta Financial Services Centre should they identify any information held by them known or suspected to be connected or related in any manner whatsoever with any of the mentioned individuals or entities.

The MFSC takes the opportunity to remind licence holders of the financial sanctions imposed by the United Nations against the Taliban, Usama Bin Laden or anyone acting on their behalf. Details of these sanctions are available from the United Nations website http://www.un.org .

Yours faithfully,

Edward Carbone
Chief Executive

Appendix III

Malta Financial Services Centre

Notice to all Licence Holders

Investigation of International Terrorism

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28 September 2001

Appendix IV

CHAPTER 66

ARMS ORDINANCE

To repeal and re-enact with amendments the law relating to arms.

(29th June, 1931)*

Enacted by ORDINANCE XVII of 1931, as amended by Act VIII of 1932; Ordinance XXII of 1940; Acts: LVII of 1948, XXXVI of 1955, IV of 1962; Legal Notices: 4 of 1963, 46 of 1965; Acts: LVIII of 1974, XXXVIII of 1977, XIII of 1983, XXXV of 1986 and VIII of 1990.

Short title.

1. This Ordinance may be cited as the Arms Ordinance.

Interpretation. *Amended by: XXXVI. 1955.2.*

2. In this Ordinance -

"ammunition" means ammunition for any firearm other than an air-gun, air-rifle or air-pistol;

"arms proper" has the same meaning as is attributed thereto in the Criminal Code; Cap.9.

"firearms" includes a firearm of every description and an air-gun, air-rifle, air-pistol or any other kind of gun from which any shot, bullet or other missile can be discharged, every component part thereof and any accessory thereto designed or adapted to diminish the noise or flash caused by the firing, but does not include any toy gun or toy pistol designed for the discharge of non-metallic missiles by force of a spring alone.

Licence to keep or carry firearms and ammunition. *Amended by: XXXV. 1986.2.*

3. (1) Whosoever shall, without a licence from the Commissioner of Police, keep in any premises any firearm or ammunition shall, on conviction, be liable to imprisonment for a term from three months to three years:

Provided that where, having regard to the quantity or quality of those firearms or that ammunition, the court is satisfied that they were not so kept for the purpose of sale or other dealing in the said firearms or ammunition contrary to law, the offender shall be liable to a fine (*multa*) of not less than thirty liri or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(1A) Whosoever shall, without a licence from the Commissioner of Police, have in his possession or under his control, or carry, any firearm or ammunition outside any premises or appurtenances thereof shall, on conviction, be liable to imprisonment for a term from two months to two years:

Provided that where a person contravenes the provisions of this subsection because of the actual necessity of lawful self-defence or of the lawful defence of another person, he shall not be liable to punishment.

(2) Any such licence shall indicate the conditions under which it shall be lawful for the licensee to keep or carry any firearm or

*See Proclamation No. XVIII of the 29th May, 1931.

ammunition, and shall specify the description of the firearm and the quantity of ammunition for which the licence is issued.

Licence to deal in arms proper. *Amended by: XXXVI.1955.3. Substituted by: XXXV.1986.3.* Cap. 37.

4. (1) Without prejudice to the provisions of the Customs Ordinance or of any other law, whosoever shall, without a licence from the Commissioner of Police, import or bring into, or export from Malta any firearm or ammunition, and whosoever shall cause to be imported, brought into, or exported from Malta, or shall knowingly aid or assist in any manner whatsoever in the importation or entry into, or exportation from Malta of any such firearm or ammunition, shall, on conviction, be liable to imprisonment for a term from three months to five years.

(2) Whosoever shall sell or otherwise deal in any firearm or ammunition or keep or expose for sale or other dealing in any such firearm or ammunition without a licence, or prior authorisation in writing, from the Commissioner of Police, shall, on conviction, be liable to imprisonment for a term from three months to five years.

(3) Whosoever shall deal in arms proper, other than firearms, or shall keep or expose for sale any such arms proper without a licence from the Commissioner of Police, shall, on conviction, be liable to a fine (*multa*) of not less than twenty liri or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Sale of firearms to unauthorized persons. *Amended by: XXXV. 1986.4.*

5. Any dealer in arms proper or any other person, who shall sell, transfer or deliver any firearm or ammunition except to a person holding a licence from the Commissioner of Police to purchase or receive such firearm or ammunition, shall, on conviction, be liable to a fine (*multa*) of not less than one hundred liri or to imprisonment for a term not exceeding three months.

Licence to purchase to be returned by dealer to Police. *Amended by: XIII. 1983.5.*

6. (1) Any dealer or other person shall, on delivering, by sale or otherwise, any firearm or ammunition to a person in possession of the said licence, retain such licence and transmit the same to the Commissioner of Police not later than the day next following the day of delivery.

(2) The dealer or other person shall, before transmitting the licence to the Commissioner of Police, endorse thereon a declaration signed by him that the firearm or ammunition mentioned therein has been delivered to the person to whom such licence was issued.

(3) Whosoever contravenes the provisions of this section shall, on conviction, be liable to a fine (*ammenda*) of not less than two liri or to detention.

Account of stock of arms, etc. *Amended by: XXXVI.1955.4; XIII. 1983.5.*

7. (1) Every dealer in firearms or arms proper shall keep a proper account of his stock of such arms and shall, before delivering any such arms, by sale or otherwise, to any person, make or cause to be made an entry in a book to be kept for the purpose, specifying the name, surname, father's name, occupation and place of residence of the person to whom the arms are to be delivered, the description of the arms, their number or quantity and the date of the sale or disposition.

(2) Every such book shall be numbered on each page and shall be countersigned on the first and last page by the Commissioner of Police, who shall also certify on the book the number of pages which it contains.

(3) Any Police officer may at all reasonable times demand inspection of the books referred to in this section, inspect any dealer's shops and stores, check the entries above-mentioned and take account of the stock in hand.

(4) Whosoever contravenes the provisions of subsections (1) and (2) of this section, or on taking delivery of any firearms or arms proper, makes any false statement with regard to any of the particulars mentioned in subsection (1) of this section, shall, on conviction, be liable to a fine (*ammenda*) of not less than two liri or to detention.

Custody of firearms.

8. (1) Any person licensed to keep or carry any firearms or ammunition, shall keep the same in his custody in such a way that they shall not fall into the hands of other persons.

(2) Whosoever contravenes the provisions of this section, shall, on conviction, be liable to a fine (*multa*).

Duty of person coming into possession of firearms.
Amended by: XXII 1940.2; XXXV 1986.5.

9. (1) Any person coming into possession of any firearm or ammunition otherwise than in virtue of a licence, shall give immediate notice to the Commissioner of Police, who shall direct whether such firearm or ammunition shall be kept in the custody of the Police or of the person giving the notice.

(2) It shall be lawful for any Police officer not below the rank of sub-inspector to require any person who is known to have come into possession of any firearm or ammunition otherwise than in virtue of a licence under this Ordinance, to produce to him such firearm or ammunition.

(3) Whosoever contravenes the provisions of this section shall, on conviction, be liable to a fine (*multa*) of not less than thirty liri or to imprisonment for a term not exceeding three months.

Prohibition on persons convicted of certain offences.
Amended by: XXXVI 1955.5; L.N. 4 of 1963.

10. (1) Except by special authority of the Minister responsible for the Police, the licences referred to in sections 3 and 4 shall not be granted to any person who, within the five years immediately preceding the date of the application therefor, has been convicted of causing bodily harm with a firearm, an arm proper or other instrument or of taking up any firearm, arm proper or other instrument against other persons, or of theft, or of an offence against the laws relating to the suppression of the white slave traffic, or of gambling or of leading an idle and vagrant life.

(2) A licence under sections 3 and 4 may be refused to any person for reasons of public or individual safety, and shall in no case be granted to any person who is under the age of eighteen years.

Licence to cease to be in force on conviction of licencee, etc.
Amended by: L.N. 4 of 1963.

11. A licence shall cease to be in force on conviction of the holder thereof for any of the offences specified in subsection (1) of the last preceding section, or in any case in which the Commissioner of Police, for reasons of public or individual safety, to be specifically recorded and duly reported by him to the Minister responsible for the Police, shall direct such licence to be cancelled or suspended.

Licence not required by certain persons.
Amended by: XXXV. 1986.6.

12. (1) Persons in the Armed Forces of Malta or in the Malta Police Force shall not require a licence to be in possession of or to carry any arm or other instrument in accordance with the regulations or custom of such service or in the performance of their duty.

(2) Persons holding a licence to keep firearms or ammunition, shall not require a licence to carry such firearms or ammunition for sporting purposes, when they are provided with a sporting licence.

Carrying of knives.
Amended by: XXXVIII. 1977.2; XIII. 1983.5.

13. (1) Whosoever shall carry a knife of any description with a pointed blade or any pointed instrument without a licence from the Commissioner of Police, shall, on conviction, be liable to a fine (*multa*) not exceeding fifty liri or to imprisonment for a term not exceeding three months.

(2) Such licence shall specify the description of the knife or instrument for which the licence is issued.

(3) The provisions of sections 10 and 11 shall apply in the case of licences under this section.

Prohibition to sell knives to minors, etc.
Amended by: XXXVIII. 1977.3; XIII. 1983.5.

14. (1) No dealer in arms proper or other person shall sell or deliver any knife with a pointed blade or other cutting or pointed instrument, to any person who is under the age of eighteen years or who is reputed to be of unsound mind or a habitual drunkard or of bad conduct.

(2) Whosoever contravenes the provisions of this section shall, on conviction, be liable to a fine (*multa*) not exceeding one hundred liri or to imprisonment for a term not exceeding three months.

Carrying of penknives or knives used in the exercise of a trade.

15. The provisions of section 13 shall not apply -

(*a*) to any penknife not provided with any other blade than that of a penknife, and which may reasonably be supposed to be carried for the purpose of making thereof the use for which a penknife is intended;

(*b*) to any knife used by any person in the exercise of his trade, if, having regard to the time, place, and other circumstances, the court is satisfied that such knife was actually carried for the purpose of such trade.

Carrying of arms of a different kind from that specified in licence.

16. If any person holding a licence under section 3 fails to comply with the terms of the licence or is in possession of or carries any firearm or ammunition not specified in such licence, or holding a licence under section 13, carries any knife or instrument of a different kind from that specified in such licence, he shall likewise be guilty of an offence against the provisions of those

sections.

Power of President of Malta to cancel licences.
Amended by: L.N. 46 of 1965; LVIII. 1974.68.

17. Where abnormal conditions affecting public safety arise in any part of Malta, it shall be lawful for the President of Malta, by Proclamation, to cancel all or any of the licences issued under the provisions of this Ordinance.

Prohibition to make use of licences belonging to others, etc.
Amended by: XXII. 1940.2; XXXVIII. 1977.4; XXXV. 1986.7.

18. Whosoever shall make use of any licence issued or authorisation in writing given to any other person under the provisions of this Ordinance, or of any licence which has ceased to be in force or which has been cancelled or suspended under the provisions of section 11, 13 or 17, shall, on conviction, be liable to imprisonment for a term not exceeding six months.

Forfeiture of arms.
Amended by: XXXVI. 1955.6; XXXVIII. 1977.5; XXXV. 1986.8.

19. The forfeiture of any firearm, ammunition, arm proper or knuckle duster kept or carried in contravention of the provisions of this Ordinance shall be a consequence of the punishment for such contravention.

Power of Police to seize arms.
Amended by: XXXVI.1955.7; XXXV. 1986.9.

20. (1) It shall be lawful for any Police officer to seize any firearm, ammunition or arm proper which, according to the provisions of this Ordinance, cannot be kept or carried without a licence, when such arm or ammunition is found in the possession of a person not holding such licence.

(2) It shall be lawful for any Police officer to search any person reasonably suspected to be carrying about his person, in any street or other place accessible to the public, any firearm, ammunition or arm proper without a licence.

Production of licence.
Amended by: XXXVI.1955.8; XXXVIII. 1977.6; XIII.1983.5; XXXV. 1986.10.

21. Any person licensed to keep or carry any firearm, ammunition or arm proper shall, when required to do so by the Police, produce his licence, and, in default he shall, on conviction, be liable to a fine (*multa*) of not less than five liri.

Arms kept by reason of their artistic value, etc.
Amended by: XXXV. 1986.11.

22. The provisions of this Ordinance shall not apply to such arms as are kept by reason of their artistic value, or of their rarity or antiquity:

Provided that where such arms consist of firearms in working condition, any person coming into possession thereof shall, within three months, register the said firearms with the Commissioner of Police, in default whereof such person shall, on conviction, be liable to a fine (*multa*).

Toys in the shape of arms.
Added by: XXXV. 1986.12.

22A. (1) No person shall sell or offer for sale, toys in the shape of firearms, arms proper, ammunition or knuckle dusters.

(2) Whoever shall contravene the provisions of subsection (1) of this section, shall on conviction be liable to a fine (*multa*) of not less than ten liri and not more than two hundred liri.

(3) The provisions of sections 27 and 30 of this Ordinance shall not apply in relation to offences under this section.

Punishment in case of second or subsequent conviction under this Ordinance, etc.

23. The alternative punishments provided for offences against this Ordinance, shall be applied cumulatively in the case of a second or subsequent conviction under the provisions of this Ordinance or in the case of offenders previously convicted of any of the offences specified in subsection (1) of section 10.

Issue and duration of licences.
Amended by:
VIII.1932.1;
LVIII.1948.2.

24. Every licence under this Ordinance shall be issued by the Commissioner of Police and shall be valid for a term not exceeding twelve months to be reckoned from the first day of January of the year in which it is issued.

Penalties for offences in connection with dangerous weapons.
Added by:
IV.1962.2.
Amended by:
XXXVIII.1977.7;
XIII.1983.5.

25. (1) Notwithstanding any provisions of this Ordinance, any person who manufactures, sells or hires or offers for sale or hire, or lends or gives to any other person or keeps or carries -

(*a*) any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in or attached to the handle of the knife, sometimes known as a "flick knife" or "flick gun"; or

(*b*) any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force and which, when released, is locked in place by means of a button, spring, lever or other device, sometimes known as a "gravity knife"; or

(*c*) any knuckle duster,

shall be guilty of an offence and shall, on conviction, be liable in the case of a first offence to a fine (*multa*) of not less than fifty liri but not exceeding two hundred liri or to imprisonment for a term of not less than three months but not exceeding six months, or to both such fine and imprisonment, and in the case of a second or subsequent offence to a fine (*multa*) of not less than two hundred liri but not exceeding five hundred liri or to imprisonment for a term of not less than six months but not exceeding twelve months, or to both such fine and imprisonment.

(2) The importation of any such knife or knuckle duster as is described in the foregoing subsection is hereby prohibited.

Possession of firearms, etc.
Added by:
XXXVIII.1977.8.
Cap. 9.

26. Saving any other provision of the Criminal Code applicable to the use of firearms, any person who -

(*a*) at the time of his committing a crime against the safety of the Government or against the person (other than involuntary homicide or involuntary bodily harm) or the crime of theft or of injury to property (other than involuntary injury to property); or

(*b*) at the time of being arrested for the commission of any crime,

has on his person any firearm, arm proper, imitation firearm or imitation arm proper shall be guilty of an offence and shall be liable, on conviction, to imprisonment for a term not exceeding two years, unless he proves that he was then carrying such firearm or arm proper for a lawful purpose.

27. The provisions of the Probation of Offenders Act and of section 21 of the Criminal Code shall not be applicable for any offence against any of the provisions of this Ordinance.

Non-applicability of Probation of Offenders Act, and of section 21 of the Criminal Code.
Added by: *XXXVIII.1977.8.*
Substituted by: *XXXV.1986.14.*
Cap.152.
Cap. 9.

28. Notwithstanding the provisions of section 370 of the Criminal Code, the Court of Magistrates shall be competent to try all offences against this Ordinance.

Offences cognizable by Court of Magistrates as court of criminal judicature.
Added by: *XXXV. 1986.15.*
Amended by: *VIII.1990.3.*
Cap. 9.

29. Subject to the provisions of section 28, proceedings against any person for any offence against any of the provisions of this Ordinance shall be taken before the Court of Magistrates as a court of criminal judicature in accordance with the provisions of the Criminal Code:

Provided that notwithstanding the provisions of section 376 (1) *(b)* of the Criminal Code, the court shall, at the request of the prosecution or of the accused, take down the evidence given by the witnesses in the manner provided for either in section 391 of the said Code or in any law for the time being in force.

Proceedings for offences.
Added by: *XXXV.1986.15.*
Amended by: *VIII.1990.3.*
Cap. 9.

30. Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgment given by the Court of Magistrates in respect of proceedings arising out of the provisions of this Ordinance.

Right of appeal.
Added by: *XXXV. 1986.15.*
Amended by: *VIII. 1990.3.*
Cap. 9.

Appendix V

CHAPTER 420

REFUGEES ACT

AN ACT to make provisions relating to and establishing procedures with regard to refugees and asylum seekers.

1st October, 2001

ACT XX of 2000.

PART I

General Provisions

Title.

1. The title of this Act is Refugees Act.

Interpretation.

2. In this Act, unless the context otherwise requires-

"applicant" means a person who has made an application for a declaration under article 8;

"application" means an application for refugee status made under article 8;

"asylum seeker" means a person who has made an application for a declaration under article 8;

"the Commissioner" means the Refugee Commissioner; and includes to the extent and authority given, any other person temporarily authorised in that behalf by the Minister;

"Convention" means the 1951 Convention relating to the Status of Refugees done at Geneva on 28th July, 1951, to which Malta acceded on 17th June, 1971, and the 1967 Protocol relating to the Status of Refugees of 31st January, 1967 to which Malta acceded on 15th September, 1971, subject to the declarations and reservations made by Malta;

"Convention Travel Document" means the travel document referred to in article 28 of the Convention;

"declaration" means a declaration that a person is a refugee;

"dependent members of the family" means the spouse of the refugee, provided the marriage is subsisting on the date of the refugee's application, and such children of the refugee who on the date of the refugee's application are under the age of eighteen years and are not married;

"the High Commissioner" means the United Nations High Commissioner for Refugees or his representative;

"humanitarian protection" means special leave to remain in Malta until such time when the person concerned can return safely to his country of origin or otherwise resettle safely in a third country;

"immigration officer" means an immigration officer appointed under the Immigration Act; Cap. 217.

"manifestly unfounded application" means an application

(*a*) which is not related to refugee grounds as defined in

the Convention; or

(*b*) which is totally lacking in substance and the applicant provides no indications that he would be exposed to fear of persecution in his own country or his story contains no circumstantial or personal details; or

(*c*) in relation to which the applicant gives clearly insufficient details or evidence to substantiate his claim and his story is inconsistent, contradictory or fundamentally improbable; or

(*d*) in relation to which applicant bases his application on a false identity or on forged or counterfeit documents which he maintains as genuine when questioned about them; or

(*e*) in relation to which applicant deliberately made false representations of a substantial nature; or

(*f*) in relation to which applicant, without reasonable cause and in bad faith, destroyed, damaged or disposed of any passport, other document or ticket relevant to his claim, either in order to establish a false identity for the purpose of his application or to make the consideration of his application by the authorities more difficult; or

(*g*) in relation to which applicant deliberately failed to reveal that he had previously lodged an application for asylum in another country; or

(*h*) in relation to which the applicant, having had ample earlier opportunity to submit an asylum application, submitted the application in order to forestall an impending removal order from Malta, and did not provide a valid explanation for not having applied earlier; or

(*i*) in relation to which applicant has flagrantly failed to comply with the substantive obligations imposed by Malta's legal provisions relating to asylum procedures; or

(*j*) prior to which the applicant had made an application for recognition as a refugee in a country party to the Convention, and the Commissioner is satisfied that his application was properly considered and rejected in that country and the applicant has failed to show a material change of these circumstances;

"the Minister" means the Minister responsible for immigration, and any public officer to whom the Minister may delegate in writing any of the duties appertaining to him under this Act;

"prescribed" means prescribed by regulation, rule, order or other instrument made under any of the provisions of this Act empowering the making of any such instrument;

"refugee" means a person who, owing to a well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is

outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, as a result of such events is unable or, owing to such fear, is unwilling to return to it, but does not include a person -

(*a*) who is receiving from organs or agencies of the United Nations (other than the High Commissioner) protection or assistance;

(*b*) with respect to whom there are serious reasons for considering that such person -

(i) has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes; or

(ii) has committed a serious non-political crime outside Malta prior to his arrival in Malta; or

(iii) has been guilty of acts contrary to the purposes and principles of the United Nations:

Provided, that in the case where a person has more than one nationality, the term "country" mentioned above, shall refer to each country of which he is a national, and such a person shall not be considered as not having the protection of his country, if, without any founded fear of persecutior, he has not sought the protection of one of the countries of which such a person is a national;

"safe country of origin" means a country of which an applicant is a national or citizen or, if he is not a national or citizen thereof, in which he has a right of residence and which, in general terms, is considered as presenting no serious risk of persecution on the basis of the following assessment criteria -

(*a*) that the country generally tends not to generate refugees;

(*b*) that the country formally adheres to its obligations according to international human rights instruments and both in its domestic law and practice meets those obligations and has moreover a history showing that it allows recognised national or international organisations to monitor its human rights record;

(*c*) that the country demonstrates in law and in practice its capacity to adhere to democratic processes, including free elections, political pluralism and freedom of expression and thought with particular attention to the availability and effectiveness of legal avenues of protection and redress:

Provided that in any assessment reached of a country's capacity to be safe from persecution in terms of the Convention, allowance shall be made to the possibility of sudden dramatic changes in its political or legal situation which would render it no longer a

safe country;

"safe third country" means a country of which the applicant is not a national or citizen and where -

(*a*) the life or freedom of the applicant would not be threatened within the meaning of Article 33 of the Convention; and

(*b*) the applicant had resided for a meaningful period of time prior to his entry into Malta; and

(*c*) the applicant would not be exposed to torture or inhuman or degrading treatment, and would be treated in accordance with basic human rights standards; and

(*d*) the applicant had either already been granted protection or has had an opportunity, at the border or within the territory of that country, to make contact with that country's authorities in order to seek their protection, before applying for asylum in Malta, or where there is clear evidence of his admissibility to that country; and

(*e*) the applicant is afforded effective protection against *refoulement* within the meaning of the Convention.

1951 Convention on the Status relating to Refugees.

3. This Act incorporates the obligations assumed by Malta under the Convention, and in its interpretation regard shall be had to the provisions of the Convention.

PART II

Procedures

Title I - The Refugee Commissioner

Establishment of Refugee Commissioner.

4. (1) There shall be a person who shall be known as the Refugee Commissioner.

(2) The Commissioner shall be appointed by the Prime Minister from among public officers or from among persons who in each case, in the opinion of the Prime Minister, have knowledge and experience in matters relating to refugees.

(3) The Commissioner shall perform such functions as are conferred on him by this Act, and without prejudice to the generality of the above, shall examine applications for refugee status and shall have the power to administer oath to any person.

(4) The Prime Minister may assign public officers to be members of the staff of the Commissioner as he may consider necessary to assist the Commissioner in the performance of his functions.

Title II - Refugee Appeals Board

Establishment of Refugee Appeals Board.

5. (1) The Refugee Appeals Board shall consist of a chairperson and two other members who shall be appointed by the Prime Minister from amongst persons of known integrity who appear to him to be qualified by reason of having had experience of, and shown capacity in, matters deemed appropriate for the

purpose:

Provided that at least one of the members of the Board shall be a person who has practised as an advocate in Malta for a period or periods amounting, in the aggregate, to not less than seven years.

Appointment.

(2) The members of the Board shall hold office for a period of three years, and shall be eligible for reappointment.

(3) The Minister may also appoint a substitute chairperson and substitute members of the Board to sit on the Board whenever the chairperson or members or any one of them is for some valid reason unable temporarily to attend and participate in the sittings of the Board:

Provided that, as far as practicable, the same chairperson and the same members shall hear and conclude the same case.

Removal.

6. A member of the Board may only be removed from office by the Prime Minister on the grounds of gross negligence, incompetence, or acts, omissions or conduct unbecoming a member of the Board.

Appeals to Board.

7. (1) The Board shall have power to hear and determine appeals against a recommendation of the Commissioner.

(2) Appeals to the Board shall be made within two weeks from the notification on the applicant of the recommendation of the Commissioner. Where the appeal is entered by the applicant a copy of the appeal shall be served on the Minister and the Commissioner. Where the appeal is entered by the Minister a copy of the appeal shall be served on the applicant and the Commissioner.

(3) When an appeal is entered by the Minister, an applicant who is in custody in virtue only of a deportation or removal order shall be released pending the decision of the Board.

(4) The Refugee Appeals Board shall, as the particular case may require, make arrangements to procure the attendance of an interpreter to assist at the hearings.

(5) An appellant shall have the right to free legal aid under the same conditions applicable to Maltese nationals.

(6) Provided all the parties agree thereto, the sittings of the Board shall be held *in camera*.

(7) Notwithstanding the provisions of the previous subarticle, a representative of the High Commissioner shall be entitled to attend the sittings of the Board.

(8) Subject to regulations made under article 19(1)(*b*) of this Act, the Board shall regulate its own procedure. The Board shall also through the Chairperson have the power to administer an oath to any person appearing before it.

Cap. 319.

(9) Notwithstanding the provisions of any other law, but without prejudice to article 46 of the Constitution of Malta and without prejudice to the provisions of article 4 of the European Convention Act the decision of the Board shall be final and conclusive and may not be challenged and no appeal may lie

therefrom, before any court of law.

(10) Where the Board finds in favour of the applicant the Minister shall issue a declaration accordingly.

(11) The provisions of this article shall not apply in the case of applications that fall to be considered under accelerated procedures in terms of article 18 of this Act.

PART III

Treatment of Asylum Seekers and Refugees

Applications for refugee status.

8. (1) A person seeking asylum in Malta shall be interviewed by an immigration officer as soon as practicable, and may apply to the Commissioner in the prescribed form for a declaration. The prescribed form shall, where possible, be in a language that the applicant understands. The immigration officer shall also inform such a person of his right to apply for a declaration and to consult the High Commissioner and to have legal assistance during all the phases of the asylum procedure.

(2) A person who at any time is in Malta (whether lawfully or unlawfully) and is seeking the status of a refugee in Malta may apply in the prescribed form to the Commissioner for a declaration and the Commissioner shall require the applicant to attend an interview within one week. An interview under this subarticle shall be conducted in private and, where necessary, with the assistance of an interpreter.

(3) All information concerning applications for refugee status shall remain confidential. Under no circumstance shall any information concerning such applications be disclosed to the authorities of the country of origin of the applicant, nor shall any information be requested from such authorities regarding the applicant.

(4) The High Commissioner shall have free access to any asylum seeker and to be present during any interview of such person by the Refugee Commissioner.

(5) The Commissioner shall as soon as possible examine any application for refugee status made in accordance with subarticles (1) or (2) hereof and shall recommend or otherwise to the Minister the acceptance of the application. In so doing he shall ensure that the applicant has presented his case fully, has supported it with testimonies and has given adequate explanations for all the reasons he has submitted in his application. Any decision by the Commissioner on any application shall be in writing and shall state the reasons supporting it.

(6) If the Commissioner recommends the acceptance of the application, the Minister shall make a declaration declaring applicant eligible for refugee status or appeal against such recommendation in accordance with article 7.

(7) The Commissioner may recommend to the Minister that, in spite of the fact that a person does not satisfy the requirements to be recognised as a refugee, such person should be granted

humanitarian protection in Malta.

(8) When such recommendation is made the Minister shall grant such humanitarian protection; such protection shall cease if the Minister is satisfied, after consulting the Commissioner, that such protection is no longer necessary.

Prohibition of *refoulement*

9. (1) A person shall not be expelled from Malta or returned in any manner whatsoever to the frontiers of territories where, the life or freedom of that person would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

(2) The provisions of subarticle (1) of this article shall not apply to a refugee in respect of whom there are reasonable grounds for regarding him as a danger to the security of Malta, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community.

Treatment of asylum seekers.

10. (1) Notwithstanding the provisions of any other law to the contrary, an asylum seeker shall not be removed from Malta before his application is finally determined in accordance with this Act and such applicant shall be allowed to enter or remain in Malta pending a final decision of his application. He shall also have access to state education and training in Malta and to receive state medical care and services.

(2) An asylum seeker -

(*a*) shall not seek to enter employment or carry on business unless with the consent of the Minister;

(*b*) shall, unless he is in custody, reside and remain in the places which may be indicated by the Minister;

(*c*) shall report at specified intervals to the immigration authorities as indicated by the Minister:

Provided that if any such applicant is in breach of any of the provisions of paragraphs (*a*), (*b*), (*c*) hereof he shall be guilty of an offence and shall be liable on conviction to imprisonment for a term of not more than six months.

(3) If the applicant leaves Malta voluntarily, his application will be deemed to be withdrawn, unless his departure from Malta is authorised by the Minister.

Rights of refugees.

11. (1) Notwithstanding the provisions of any other law to the contrary, and notwithstanding any deportation or removal order, a person declared to be a refugee shall be entitled -

(*a*) to remain in Malta, and to be granted personal documents, including a residence permit; and if in custody in virtue only of a deportation or removal order, to be immediately released;

(*b*) unless he is in custody awaiting judicial proceedings for the commission of a criminal offence, or is serving a term of imprisonment, to be given a Convention Travel Document entitling him to leave and return to Malta without the need of any visa;

(*c*) to have access to state education and training in Malta, and to receive state medical care and services.

(2) Dependant members of the family of a person declared to be a refugee, if they are in Malta at the time of declaration or if they join him in Malta, enjoy the same rights and benefits as the refugee.

Young persons.

12. Any child or young person below the age of eighteen years falling within the scope of this Act who is found under circumstances which clearly indicate that he is a child or young person in need of care, shall be allowed to apply for asylum, and for the purposes of this Act, shall be assisted in terms of the Children and Young Persons (Care Orders) Act, as if he were a child or young person under such Act.

Cap. 285.

Resettlement.

13. The Minister may at the written request of an applicant or recognised refugee, and where necessary, with the assistance of the High Commissioner, facilitate the resettlement of any applicant or refugee to another country and do all that is required for the purpose.

Assistance.

14. The Commissioner shall ensure as far as possible that the application of this Act is in conformity with accepted international practice, and for this purpose may seek the assistance of the High Commissioner or of any national or international non-governmental body concerned with refugee matters.

PART IV

Revocation of Declaration

Cessation of refugee status.

15. (1) A person shall cease to possess refugee status if he -

(*a*) has voluntarily re-availed himself of the protection of the country of his or her nationality, or having lost his nationality, has voluntarily re-acquired it; or

(*b*) has acquired a new nationality and enjoys the protection of the country of his new nationality; or

(*c*) has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(*d*) can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; or

(*e*) is a person who has no nationality and, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, is able to return to the country of his habitual residence.

(2) A person who is notified that he has ceased to possess refugee status shall be entitled to appeal against such decision to the Refugee Appeals Board within two weeks of such notification and the provisions of article 7 of this Act shall mutatis mutandis

apply to such appeal. The decision of the Refugee Appeals Board shall be final.

Cancellation of Refugee status.

16. (1) The Minister may revoke a declaration of refugee status if he is satisfied, after due investigation, that a person to whom a declaration has been given has been erroneously recognized as a refugee on an application which contains any materially incorrect or false information, or was so recognized owing to fraud, forgery, false or misleading representation of a material or substantial nature in relation to the application.

(2) A person in whose regard the Minister has revoked a declaration under subarticle (1) of this article shall be entitled to appeal against the revocation to the Refugee Appeals Board within one week of the notification of the revocation to him, and the provisions of article 7 of this Act, shall, *mutatis mutandis* apply to such appeal.

Expulsion of a refugee.

17. (1) The Minister may order the expulsion from Malta of any refugee on grounds of national security or public order, and pending such expulsion such person shall be held in custody.

(2) The provisions of article 7 of this Act shall, *mutatis mutandis*, apply to expulsion orders issued under this article.

(3) Any refugee to whom this article applies shall be allowed a reasonable period of time within which to seek legal admission into another country.

PART V

Accelerated Procedures

Accelerated procedures.

18. (1) A person seeking asylum in Malta in terms of article 8 of this Act shall be examined under accelerated procedures in accordance with this article when -

(*a*) his application appears *prima facie* to be manifestly unfounded as defined in article 2 of this Act, or

(*b*) the person is a national or citizen of a safe country of origin as defined in article 2 of this Act, or if he is not a national or citizen thereof, he has a right of residence therein, and there is no serious risk to him of persecution within the terms and scope of the Convention, or

(*c*) the person has either already been recognized as a refugee in terms of the Convention in a safe third country as defined in article 2 of this Act or where he has had the opportunity, at its border or within its territory, to apply there for refugee status before coming to Malta and there is clear evidence of his admissibility to that third country.

(2) If after interviewing the applicant in accordance with the procedures outlined in article 8(1) of this Act, the immigration officer is of the opinion that the application falls into one or more of the categories specified in subarticle (1) (*a*) to (*c*) of this article, he shall immediately submit a report in writing on the case.

together with the application made by the person, to the Commissioner, and a copy of all the material sent to the Commissioner shall also be sent by the immigration officer to the Chairman of the Refugee Appeals Board.

(3) Where a report is made to the Commissioner under the foregoing provisions, the Commissioner shall examine the application without delay and in any case within three days after receiving the report from the immigration officer in accordance with subarticle (2) hereof.

(4) The Chairman of the Refugee Appeals Board shall, within three days and independently of the examination being carried out by the Commissioner, examine an application referred to him by the immigration officer in accordance with subarticle (2) hereof.

(5) The opinion of the Commissioner and the Chairman of the Refugee Appeals Board on any matter referred to them in accordance with subarticle (2) hereof shall be formed independently of each other on the basis of a separate interview with the applicant, on the documentation provided by the immigration officer, and upon any other information from individuals, organisations or other authorities concerned which they may independently consider necessary and expedient for the purposes of carrying out a proper examination of the case.

(6) Any interview with the applicant under the foregoing provisions shall, where necessary, be conducted in private and with the assistance of an interpreter, and, if so desired by the applicant, in the presence of the High Commissioner. The applicant shall also be informed of his right to obtain the services of a lawyer to assist him during proceedings.

(7) The applicant concerned and the High Commissioner may make further representations, verbally or in writing, to the Commissioner and, or the Chairman of the Refugee Appeals Board, as the case may be, in relation to an investigation being carried out by them in pursuance of an application considered by the immigration officer to fall under one of the categories specified under subarticle (1)(*b*) and (*c*) hereof if the applicant concerned claims on an individual and personal basis a serious risk to himself in a country otherwise considered as safe within the scope of the Convention, and the Commissioner and the Chairman of the Refugee Appeals Board shall consider any such representations.

(8) Subject to the foregoing provisions of this article, where in their decision the Commissioner and the Chairman of the Refugee Appeals Board independently of each other both come to the conclusion that the application falls under any one of the specific categories mentioned in subarticle (1)(*a*) to (*c*) of this article, the application shall be rejected and such decision shall be final and conclusive and notwithstanding the provisions of any other law no appeal or action for judicial review shall lie before the Refugee Appeals Board or before any other court of law. The decision, including the grounds therefor, shall be communicated by the Commissioner to the applicant orally, unless he requests its confirmation in writing.

(9) (*a*) Where, following the procedures outlined in the previous provisions of this article, an application has been rejected, the Commissioner shall send a copy of the decision together with the grounds therefor to -

(i) the Minister,

(ii) the Chairman of the Refugee Appeals Board,

(iii) the High Commissioner, and

(iv) the immigration officer.

(*b*) Following a decision rejecting an application examined under accelerated procedures in accordance with this article, the Commissioner may, if he considers it necessary to do so, inform any third country authorities concerned that the said asylum application was not examined as to substance.

(10) Where the Commissioner and the Chairman of the Refugee Appeals Board, following an independent examination of an application referred to them in terms of the foregoing provisions of this article reach different conclusions or both disagree with the opinion of the immigration officer as to whether the application falls to be considered under any one of the categories specified in subarticle (1)(*a*) to (*c*) hereof, the applicant shall be entitled to have his application for asylum processed under normal procedures as provided for under this Act, including the right to appeal in terms of article 7, and the Commissioner shall accordingly orally inform the applicant and the High Commissioner in writing immediately.

(11) For the purposes of subarticle (1)(*b*) and (*c*) hereof, the Minister may in writing through administrative procedures declare a country to be safe from persecution within the terms and scope of the Convention. The Minister may, also in writing through administrative procedures, declare a country to be no longer safe if, in his opinion, changes in its political or legal situation show that the requirements of the Convention as to protection have ceased to exist or have become unsatisfactory.

(12) Without prejudice to the generality of the foregoing provisions of this article, if in the process of examining any application submitted in terms of article 8 of this Act, the Commissioner arrives at the conclusion that the application should be dealt with under accelerated procedures on the basis of its being manifestly unfounded or because the applicant has found or could have found safe protection elsewhere in terms of the Convention, the application shall be dealt with under accelerated procedures and the foregoing provisions of this article shall *mutatis mutandis* apply.

(13) For the purposes of subarticle (1)(*c*) hereof, if an applicant holds a travel document issued by a third safe country pursuant to the Convention, he shall be declared to have been safe from persecution in such state and his application shall be dealt with under accelerated procedures in accordance with the foregoing provisions of this article.

PART VI

Miscellaneous

Power to make regulations.

19. (1) The Minister may make regulations for the purpose of enabling this Act to have full effect and, in particular, but without prejudice to the generality of the foregoing, regulations under this article may make provisions-

(*a*) regulating applications for a declaration and the procedure for and in relation to such applications;

(*b*) regulating with the concurrence of the Refugee Appeals Board, appeals under this Act to the Refugee Appeals Board and the procedure for and in relation to such appeals and for providing that any person who contravenes or fails to comply with the provisions of any one or more of such regulations shall be guilty of an offence against the regulations and for establishing the penalty being not more than that to which such person shall on conviction be liable, a fine (*multa*) not exceeding five hundred Maltese liri or imprisonment not exceeding three months, or to both such fine and imprisonment;

(*c*) regulating the provision of legal aid to asylum seekers;

Cap. 318.

(*d*) extending, with the concurrence of the Minister responsible for social security, any of the provisions of the Social Security Act to persons falling under this Act;

(*e*) regulating the assignment and allocation of responsibilities and duties appertaining to the Minister under this Act to a public officer;

(*f*) regulating, with the concurrence of the Minister responsible for labour, the granting of work permits to recognised refugees;

(*g*) for providing the means for facilitating the identification of applicants for refugee status and for communicating such information, when requested, to the competent authorities of the countries with which Malta has related bilateral agreement intended for such purposes or which are parties to international conventions related to refugees and to which Malta is also a party and which provide for such exchanges.

(2) Notwithstanding the provisions of any other law, the Minister may under this subarticle make regulations, making provisions adding to or derogating from the provisions of this Act, to enforce the provisions of any international convention or other treaty relating to refugees, their status and protection, to which Malta may become a party provided the ratification of such treaty has been approved by a Resolution of the House of Representatives.

Transitory provision.

20. (*a*) Where, before the commencement of this Act, a person has made an application for refugee status before the

High Commissioner but a decision in relation thereto has not been made, the application shall be deemed to be an application under article 8 of this Act and shall be dealt with in accordance with this Act.

(*b*) Without prejudice to the provisions of any other law, a person in Malta who before the commencement of this Act had already been recognised as a refugee by the High Commissioner, shall upon his request continue to be regarded as such, and the provisions of this Act, where relevant, shall apply also to him.

(*c*) A person in Malta who before the commencement of this Act, although not recognised by the High Commissioner as a refugee, enjoys humanitarian protection granted to him by the said High Commissioner, or whose case is one classified by the High Commissioner as one of concern, shall upon his request continue to be regarded as such and shall enjoy humanitarian protection in Malta as defined under this Act.

United Nations S/2001/1251

Security Council

Distr.: General
28 December 2001
English
Original: French

Letter dated 21 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Finland, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-71810 (E) 170102

Annex

[Original: English]

Letter dated 21 December 2001 from Chargé d'Affaires a.i. of Finland to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Representative of Finland to the United Nations presents her compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and, with reference to note SCA/20/01(6), has the honour to submit herewith the report presenting the measures the Government of Finland has taken to implement resolution 1373 (2001) (see enclosure).

(*Signed*) Anna-Maija **Korpi**
Ambassador
Chargé d'affaires a.i.

Enclosure

Report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council Resolution 1373 (2001) of 28 September 2001*

FINLAND

Finland condemns terrorism in all its forms. Terrorism is a threat to the implementation of human rights, democracy and the rule of law as well as to international peace and security. Finland underlines the importance of international cooperation, collective action, and respect for human rights and for the rule of law in the combat against terrorism, including the following measures:

- bringing those responsible for terrorist acts to justice
- strengthening the role of the United Nations conventions against terrorism
- strengthening transatlantic cooperation to combat terrorism (exchange of information, effective cooperation between the competent authorities, cooperation in the suppression of the financing of terrorism)
- concentration on efforts to resolve regional conflicts (in particular the conflict in the Middle East)
- strengthening the system of international law
- in the long run, eradication of poverty and enhancement of good governance, democracy and respect for human rights, in order to eliminate ground for terrorism
- strengthening the international instruments concerning arms control and weapons of mass destruction
- ensuring a central role for the UN Security Council in action against terrorism

Operative paragraph 1

sub-paragraph (a) — ***What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to question on 1 (b) to (d)?***

Finland is a member of the Financial Action Task Force on Money Laundering (FATF). The special recommendations on terrorist financing adopted by the FATF on 29-30 October 2001, together with the Forty Recommendations of the FATF, set out the basic framework for detecting, preventing and suppressing the financing of terrorism. The existing Finnish legislation meets the requirements of the Forty Recommendations. A review of the existing legislation for the purpose of implementing the special recommendations is underway. Proposals for the necessary legislative amendments will be introduced to Parliament in the spring of 2002.

The Finnish penal provisions concerning money laundering can in certain limited cases be already now applied to the financing of terrorism. The current Money Laundering Act (MLA) does not, however, allow the freezing of suspected terrorist funds unless investigation concerning suspected money laundering is pending.

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* Comprehensive information on measures taken jointly by the European Union is contained in the report submitted by the European Union.

The implementation of the 2nd EU Money Laundering Directive is also underway. The predicate offence for the Money Laundering Act may be any offence. However, under the existing MLA, the reporting obligation only applies to situations where the origin of funds is suspected. The MLA is being amended in order to extend the reporting obligation to situations where funding of terrorism is suspected. Also the provisions concerning exchange of information between Financial Inspection Units and other authorities will be reviewed in this context.

See also responses under sub-paragraphs 1 (b), (c) and (d).

subparagraph (b) – ***What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?***

The existing Finnish Penal Code contains no specific provisions on terrorist acts. Thus, such acts would fall under the scope of the provisions of Chapter 34, concerning endangerment offences. The applicable penal provisions include but are not limited to those on aggravated criminal mischief, aggravated health endangerment and hijacking. Persons guilty of provision or collection of funds for such offences would mainly be punished under the provisions on participation, provided that the offence in question is actually committed. The sentence imposed for aiding or abetting would be more lenient than the one imposed on the person who commits the offence. The maximum sentence for aiding in respect of aggravated criminal mischief, aggravated health endangerment and hijacking is imprisonment for 7 years and 6 months. See also response under sub-paragraph 2 (e).

Preparations are underway to add to the Penal Code an explicit provision prohibiting wilful provision or collection, by any means, directly or indirectly, of funds with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. This will also enable Finland to ratify the International Convention for the Suppression of the Financing of Terrorism. The ratification of the Convention and the related amendments to the Penal Code are scheduled to be completed during the first half of 2002. A more comprehensive review of Chapter 34 of the Penal Code in order to add specific provisions on terrorist offences will take place in 2002 in the context of the national implementation of the Framework Decision on Terrorism of the European Union.

sub-paragraph (c) – ***What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.***

As a general rule, the imposition of financial sanctions and the implementation of the United Nations Security Council resolutions imposing financial sanctions fall within the competence of the European Community. The respective UN resolutions are implemented in the Community through Council regulations which are directly applicable legislation in the Member States of the European Union.

At the national level sanctions imposed by the UNSC or the EU are implemented by virtue of the Act on the Enforcement of Certain Obligations of Finland as a Member of the United Nations and of the European Union ("general enabling act", 659/1967). The Act authorises the implementation of binding Security Council resolutions and European Union sanctions imposed under certain provisions (articles 60 and 301) of the Treaty establishing the European Union. According to Chapter 46, section 1 (11) of the Finnish Penal Code, a person who violates or attempts to violate a regulatory provision in a sanctions regulation, adopted on the basis of Article 60 or 301 of the Treaty establishing the European Community, shall be sentenced for a regulation offence to a fine or to imprisonment for at most two years.

The Council of the European Union adopted on 6 March 2001 a regulation (Council Regulation (EC) No. 467/2001) implementing the UN Security Council resolution 1333. By virtue of the regulation, the funds and other economic resources of the persons and entities designated by the Security Council Afghanistan Sanctions Committee, and listed in Annex I to the regulation, shall be frozen. Following the decisions made by the Security Council or the Sanctions Committee, the Commission of the European Communities has amended on four occasions the said Annex I to the regulation 467/2001.

To meet the further requirements set by the Security Council resolution 1373, the Council of the European Union agreed on 10 December on a common position and on a regulation constituting the basis for the freezing of funds and other financial assets or economic resources of a natural or legal person, entity or group designated by the Council of the European Union. By virtue of the afore-mentioned instruments, it will also be prohibited to make available any funds and other financial assets or economic resources to the same persons. The EU legislation is envisaged to enter into force in early 2002.

The afore-mentioned Council Regulation will meet with the obligation set out in sub-paragraphs 1. (c) and (d) of the Resolution 1373, and separate national measures will therefore not be necessary in this respect. However, minor amendments to the existing legislation will be needed in order to provide for the sanctions and forfeitures to be imposed for violations of the regulation. Considering that the regulation will be targeted at persons and entities not having connection to any particular third country, it will be adopted not only on the basis of articles 60 and 301 of the Treaty establishing the European Union but also on the basis of article 308 thereof. As the last-mentioned article is not specifically referred to in the above-mentioned general enabling act, such a reference will have to be inserted therein upon entry into force of the regulation. A corresponding amendment will also need to be made to the Penal Code.

sub-paragraph (d) – What measures exist to prohibit the activities listed in this sub-paragraph?

See response under sub-paragraph 1(c).

Operative paragraph 2

sub-paragraph (a) – ***What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?***

Under the existing legislation, the recruitment of persons and the supply of weapons are criminalized insofar as they pertain to the preparation of high treason (Chapter 13, section 3 of the Penal Code). As for recruitment to terrorist groups, the provision on incitement (Chapter 5, section 2 of the Penal Code) is also of relevance. Under that provision "a person who orders, employs, harasses or otherwise intentionally induces or entices another person into an offence shall be punished, if the offence was completed, or constitutes a punishable attempt, for incitement as if that person himself or herself was an offender". New penal provisions on offences relating to a terrorist group will be enacted in Finland in 2002 pursuant to the EU Framework Decision on Terrorism. These provisions will cover inter alia directing of a terrorist organisation as well as participation in the activities of such a group.

Preparations are underway to ratify the Protocol against the Manufacturing of and Trafficking in Illicit Firearms, Ammunition and Related Materials supplementing the UN Convention against

Transnational Organised Crime done in Palermo in 2000. Finland signed the Convention and the first two optional protocols on 12 December 2000. The Firearms Protocol will be signed before the end of the year. A Government Bill to the Parliament on the Palermo Convention package, including the three optional protocols, is expected in 2002. It is intended that the ratification process be completed by 2003, and existing legislation be amended as necessary.

Finland has implemented the 1991 EU directive on the control of the acquisition and possession of weapons and is also committed to the implementation of the OSCE Document on Small Arms and Light Weapons.

Export or transit of defence materiel is subject to specific authorisation (export licence). In addition to the grounds for the issue of export licence laid down in the Act on the Export and Transit of Defence Materiel (242/1990), Finland applies the European Union Code of Conduct for Arms Exports which specifically requires the Member States of the European Union to take into account, inter alia, the record of the buyer country with regard to its support for or encouragement of terrorism and international organised crime. In assessing the impact of the proposed export on the importing country and the risk that exported goods might be diverted to an undesirable end-user, the risk of the arms being re-exported or diverted to terrorist organisations is considered.

In the field of small arms and light weapons Finland is committed to the Programme of Action as a result of the UN Conference to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons (SALW) as well as to the European Union Joint Action on Small Arms. On the basis of the EU Programme for Preventing and Combating Illicit Trafficking in Conventional Arms member states will strengthen their collective efforts to prevent and combat illicit trafficking of arms, particularly of small arms, in and through their territories. This includes fostering enhanced cooperation and coordination amongst intelligence, customs and other law enforcement agencies, both at the national and at the international level. The purpose of such co-operation is to ensure adequate customs checks, prompt investigation and effective prosecution in cases of illicit trafficking of arms as well as improving the exchange of information and data on illicit trafficking of arms, e.g. through the use of international data bases and risk analyses.

Finland takes part in international co-operation to control the supply of weapons, including various projects at the international and regional level and has also bilateral co-operation (inter alia UN, EU and OSCE projects in Mozambique, Tanzania, Cambodia and Central Asia).

sub-paragraph (b) – ***What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?***

Finland participates in the exchange of information with other States to prevent the commission of terrorist acts both bilaterally and multilaterally through the EU, including Europol, and Interpol. Measures to intensify such exchange of information within the EU have been referred to in the Report submitted by the European Union.

sub-paragraph (c) – ***What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.***

A foreign national may be refused entry into Finland if the person in question may, on account of prior conviction or other justifiable reasons, be assumed to commit in Finland or in another Nordic country an offence for which the statutory punishment is more than one year of imprisonment (Aliens Act, Section 37, 537/1999). Foreign nationals may be deported or expelled from Finland

in cases referred to in Chapter VI, sections 40 and 41 of the Aliens Act, in compliance with the provisions of the said Act. The pertinent provisions cover cases where the person in question has committed an offence for which the statutory punishment is at least one year of imprisonment, or has repeatedly committed offences, or has demonstrated by his or her behaviour that he or she is a danger to the safety of others.

However, no one may be returned or deported to an area where he or she may be subjected to persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion or where he or she would be under the threat of death penalty, torture or other inhuman or degrading treatment, nor to an area from which he or she could be further sent to such an area.

sub-paragraph (d) – ***What legislation or procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken***

The applicable provisions are included in Chapter VI of the Aliens Act and Chapter 34, section 9 of the Penal Code (preparation of endangerment). Additional provisions on acts of terrorism as well as terrorism-related offences will be included in the Penal Code in 2002 to make it fully encompass the provisions of the Convention for the Suppression of the Financing of Terrorism as well as the acts referred to in the EU Framework Decision on Terrorism. See also responses under sub-paragraphs 1 (b), 2 (a) and 2 (c).

Under the provisions concerning the scope of application of the Finnish Penal Code, Finnish law shall apply to offences committed on the Finnish territory. Terrorist acts would in most cases be covered by the provisions of Chapter 1, section 7 of the Penal Code and by the Decree on the application of these provisions, and would thereby be considered international offences to which the Finnish Penal Code could be applied irrespective of the place of commission of those offences.

sub-paragraph (e) – ***What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.***

A person who commits endangerment offences may be sentenced to imprisonment for 10 years. In the context of the amendments to be made to the Penal Code in 2002, more severe penalties may be included in the provisions on terrorist acts. See also responses under sub-paragraphs 3 (d) and (e).

sub-paragraph (f) – ***What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice?***

The European Union has introduced an Assistance Programme to improve the capacity of the Palestinian Authority to combat terrorism. Finland will participate in the human rights component of the second phase of the Programme. Reference is also made to the report submitted by the European Union.

sub-paragraph (g) – ***How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?***

Finland participates in the Schengen system which comprises the territories of all EU Member States, except for the United Kingdom and Ireland, as well as the territories of Iceland and Norway. Border checks on travellers have been abolished in all traffic between Schengen States, at

the same time as adequate border controls and a uniform procedure of border checks have been introduced at external borders. The electronic Schengen Information System (SIS) allows quick exchange of information between the Schengen States. The system provides information on persons who are considered to represent a serious threat to internal or external national security in accordance with Article 99 (3) of the Schengen Convention.

The Justice and Home Affairs Council of the European Union decided on 20 September 2001 on measures needed to combat terrorism. The conclusions adopted by the Council include, inter alia, measures relating to the procedures for the issue of visas and to the controls at external borders.

A common visa policy is applied within the European Union. The grounds for the issue of visas are laid down in the Common Consular Instructions on Visas. Increasing attention is being paid in particular to the interviews of persons applying for visas as well as to document security.

The controls at the Finnish borders fully meet the requirements of the Schengen acquis concerning the controls at external borders. Following the conclusions of the Justice and Home Affairs Council, controls at borders have been strengthened and focused, inter alia, by using the existing risk analysis system.

The procedures and techniques used for the identification of falsified travel documents are under constant review. The Finnish Frontier Guard use the latest technology for that purpose. The Frontier Guard has intensified the distribution of information on falsified travel documents. Since May 2001, the Frontier Guard document examination center located at the main airport has provided real-time information (document alert) mainly to the airlines and foreign authorities concerning false travel documents. An electronic database is being used to share information with other national authorities on authentic and false travel documents. The establishment of a similar Europe-wide database is under preparation. The mechanisms to identify persons from e.g. finger-prints is under development.

Operative paragraph 3

sub-paragraph (a) – ***What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?***

Finland participates in the exchange of operational information within the EU, including Europol, and through the Interpol.

In relation to movements of terrorist persons and forged or falsified travel documents, border controls of passengers and their identity and travel documents, regular exchange of information is carried out within co-operation under the Schengen Agreement. See response to question 2 (g).

sub-paragraph (b) – ***What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?***

The Finnish Act on International Legal Assistance in Criminal Matters (Act No 4/1994) provides a flexible basis for cooperation. A request for legal assistance can be made directly to the competent Finnish authority. Finnish courts, prosecutors and investigating authorities may send a request for legal assistance directly to another state. Double criminality is not required for rendering mutual legal assistance, provided that the enforcement of the request does not require the use of coercive means.

The provision of legal assistance is not based on the principle of reciprocity. Nor is it required that the requesting state is a party to any convention on legal assistance. The above-mentioned provisions will be applied without exception to requests relating to terrorist acts.

The UN counter-terrorism conventions to which Finland is a party contain provisions on legal assistance. Finland has bilateral agreements on legal assistance with five countries and is also a party to the European Convention on Mutual Assistance in Criminal Matters.

sub-paragraph (c) – ***What steps have been taken to cooperate in the areas indicated in this sub-paragraph?***

See responses under sub-paragraphs 1 (a) and (b), 2 (a) and (e), 3 (b), (d) and (e). See also the Report submitted by the European Union.

sub-paragraph (d) – ***What are your government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?***

Finland has signed all twelve UN Conventions related to terrorist acts and has ratified ten of them. Finland has also ratified the 1977 European Convention on the Suppression of Terrorism. Finland signed the 1997 International Convention for the Suppression of Terrorist Bombings on 22 January 1998. The Government Bill concerning the ratification of the convention was submitted to Parliament in December 2001. Finland signed the 1999 International Convention for the Suppression of the Financing of Terrorism on 10 January 2000. The necessary amendments to the national legislation required for the ratification of that Convention are being prepared. The ratification of both conventions is scheduled for the first half of 2002. See the attached list of conventions pertaining to terrorism which have been ratified by Finland.

sub-paragraph (e) – ***Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph?***

The criminalizations in the UN conventions and protocols relating to terrorism have been duly incorporated in the Penal Code, Chapter 34, which includes provisions on criminal mischief, criminal traffic mischief, nuclear device offence, preparation of offences causing general danger, false alarm and hijacking. Attempts to commit any such offences are punishable. The general rules of the criminal process apply in these offences. Chapter 25 on Offences against Liberty also covers acts, such as threat and coercion, that are related to acts of terrorism. Detailed provisions on corporate criminal liability is contained in Chapter 9 of the Code.

In accordance with the Finnish legal system all international agreements binding on Finland are incorporated into domestic legislation through an appropriate legislative measure prior to the ratification.

sub-paragraph (f) – ***What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.***

As a general rule, an alien shall be granted asylum in Finland if he or she, owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, resides outside his or her country of origin or habitual residence and, owing to such fear, is unwilling to avail himself or herself of the protection of the said country. Chapter V, section 30 of the Aliens Act provides for the special grounds on which asylum may not be granted, including the commission of a serious offence other than political offence by the alien.

The background of asylum-seekers is investigated where necessary. Such investigation falls under the competence of the Security Police. As regards persons who have been granted asylum, measures may be taken in compliance with the provisions of the Aliens Act, Chapter VI. See also response under sub-paragraph 2 (c) above.

sub-paragraph (g) – ***What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.***

Finland is a party to the 1951 Convention Relating to the Status of Refugees and has incorporated its provisions into national legislation. The Refugee Convention permits the exclusion of a person from refugee status if there are serious reasons to consider i.e. that he or she has committed acts contrary to the purposes and principles of the United Nations (article 1 f c). The UN General Assembly, in the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism (UNGA Res. 51/210), has confirmed that acts of terrorism, knowingly financing, planning or inciting terrorist acts, are contrary to the purposes and principles of the United Nations. Finland interprets the Convention accordingly.

The investigations applied to asylum-seekers are also applicable to refugees. See also responses to 2 (c) and 3 (f).

Acts of terrorism are not considered to constitute political offences under Finnish law. When acceding to the European Convention on the Suppression of Terrorism in 1990, Finland made a reservation allowed by the Convention, concerning extradition in respect of political offences. A Government Bill for the withdrawal of the reservation has been submitted to Parliament in December 2001. It should also be noted that the reservation has never been invoked in practice. There have been no cases since 1990 where extradition would have been refused on the grounds that the offence in question is considered a political offence.

Appendix

United Nations Conventions and Protocols pertaining to international terrorism

(1) Conventions and protocols ratified by Finland

Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963

Convention on the Suppression of Unlawful Seizure of Aircraft, done at the Hague on 16 December 1970

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, done at New York on 14 December 1973

International Convention against the Taking of Hostages, done at New York on 17 December 1979

Convention on the Physical Protection of Nuclear Material, done at Vienna on 3 March 1980

Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988

Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988

Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1 March 1991

(2) Conventions signed by Finland

International Convention for the Suppression of Terrorist Bombings, done at New York on 15 December 1998

International Convention for the Suppression of the Financing of Terrorism, done at New York on 9 December 1999

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Letter dated 21 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Ireland, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-71816 (E) 040102 160102

Annex

[Original: English]

Letter dated 21 December 2001 from the Chargé d'affaires a.i. of the Permanent Mission of Ireland to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Sir,

On the instructions of my Government, I have the honour to enclose a report from Ireland to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001).

I should be grateful if you would have the text of the present letter and the enclosed report circulated as a document of the Security Council.

(*Signed*) Gerard **Corr**
Chargé d'affaires a.i.

Enclosure

Report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001)

Ireland

Ireland is fully committed to implementation of Security Council resolution 1373 (2001).

Ireland is giving effect to resolution 1373 (2001) through action at both national and European Union levels, as well as through participation in the Financial Action Task Force of the Organisation for Economic Cooperation and Development and other international bodies.

Reference is made in the course of the present report to various aspects of Ireland's domestic legal framework as it affects the fight against terrorism. Irish law has not defined terrorism, which has been addressed through the criminal law, in particular the *Offences against the State Acts 1939-1998*. Reference is also made below to aspects of general criminal law which have application to terrorist crime, as well as to legislation giving effect to international conventions to which Ireland is party.

Preparations are well advanced to give effect in domestic law to those conventions directed against terrorism to which Ireland is not yet party, including the *International Convention for the Suppression of the Financing of Terrorism (1999)*. It is also the intention, following the political agreement reached in the European Union in December 2001, to give effect to the "Framework Decision on Combating Terrorism", which makes provision, inter alia, for a common definition of terrorist acts and certain minimum criminal sanctions. In addition to addressing the specific requirements arising from the Framework Decision, the legislation will also be directed to making any further changes to Irish law necessary to deal with international terrorism.

The present report is set out according to the guidance circulated by the Chairman of the Counter-Terrorism Committee.

Operative paragraph 1

Subparagraph (a) What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions 1(b) to (d)?

Ireland has participated fully in the work of the Financial Action Task Force in its efforts to combat money-laundering, e.g. at the Extraordinary Plenary meeting of the Task Force in Washington on 29 and 30 October 2001, and has fully supported the extension of its mandate to include the financing of terrorism. Work is now being taken forward on the implementation of the eight special recommendations on terrorist financing through action at the national and European Union levels as appropriate.

Ireland is also supporting the work of the international financial institutions in factoring into their work both the fight against money-laundering and against the financing of terrorism insofar as this is appropriate.

Subparagraph (b) What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

Regulations made under the *Financial Transfers Act 1992* and the *European Communities Act 1972* make it an offence not to comply with EC Regulation 467/2001 and subsequent amending Regulations, which provide for the freezing of all funds and other financial resources of the Taliban and related entities in accordance with the decisions of the United Nations Sanctions Committee on Afghanistan. The penalties are: a maximum of 10 years imprisonment and/or fine of IR£10 million in the case of an offence under the 1992 Act regulations, and 1 year and/or fine of IR£2,363 under the 1972 Act regulations.

The *Offences Against the State Acts 1939-1998* make provision in relation to actions and conduct calculated to undermine public order and the authority of the State and to regulate and control in the public interest the formation of associations. The Irish Republican Army (IRA) and the Irish National Liberation Army (INLA) have been declared unlawful organizations in accordance with, and for the purposes of, the provisions of those Acts. The *Criminal Law Act 1976* makes it an offence for a person to incite or invite another person to support or assist the activities of such organizations.

Ireland signed the *International Convention for the Suppression of the Financing of Terrorism (1999)* on 15 October 2001. Legislation to give effect to the Convention is in preparation. It is proposed that that legislation will make the financing of terrorism an offence in keeping with the terms of the Convention and provide for severe penalties for those who commit such offences. It is intended to enact the legislation with a view to ratification of the Convention early in 2002.

Subparagraph (c) What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

EC Regulation 467/2001 adopted by the European Council of Ministers on 6 March 2001 provides for the freezing of all funds and other financial resources of the Taliban and related entities in accordance with the decisions of the relevant United Nations Sanctions Committee. The Regulation, which has been amended on a number of occasions between March and November 2001, has application, inter alia, to persons and entities linked to Osama bin Laden and Al Qaida network. The Regulation has direct effect in Ireland and therefore the force of law. The Irish Central Bank is the supervising authority for the purposes of the Regulation and has brought its provisions to the attention of financial institutions. Regulations made under the *Financial Transfers Act 1992* and the *European Communities Act 1972* make non-compliance with the requirements of the Regulation an offence and impose penalties as indicated above. There have been a number of notifications to the European Union Commission in accordance with the terms of the Regulation.

A Regulation and Common Position on specific restrictive measures directed to combating terrorism agreed by the Council of the European Union on 10 December 2001 are intended to give effect to the wider scope of the measures called

for by Security Council resolution 1373 (2001). The Regulation provides for the freezing and withholding of funds, other financial assets and economic resources of natural or legal persons, groups or entities specified in the regulation itself. It will have direct effect in Ireland.

There are dedicated provisions in the *Offences Against the State Acts 1939-1998* directed to the property and funds of organizations which have been declared unlawful organizations for the purposes of those Acts. Section 22 of the *Offences Against the State Act 1939* provides a general power of forfeiture of property of an unlawful organization as a consequence of the making of a suppression order in relation to that organization. The *Offences Against the State (Amendment) Act 1985* makes provision, which can be brought into operation from time to time by Government order, under which the Minister for Justice, Equality and Law Reform may authorize the restraint of funds believed to be destined for the use of an unlawful organization.

Other provisions of the criminal law relating to the proceeds of crime also have application to terrorist financing: the *Criminal Justice Act 1994*, the *Proceeds of Crime Act 1996* and the *Criminal Assets Bureau Act 1996*. These permit the confiscation of terrorist finances where they can be shown to be the proceeds of crime either directly or indirectly.

The *Criminal Justice Act 1994* provides for the seizure and confiscation of the proceeds of drug trafficking and other serious offences by making of restraint and confiscation orders for this purpose. A confiscation order may be made in circumstances where a person has been convicted on indictment of an offence to which the Act applies. Restraint orders may be made where proceedings against a person are contemplated or are under way for the purpose of ensuring that property is available for the enforcement of subsequent confiscation orders. Provision is also made for forfeiture orders in respect of property used for the purpose of committing or facilitating the commission, or intended commission, of an offence. This provision was amended by the *Offences Against the State (Amendment) Act 1998* to require a forfeiture order to be made in respect of such property in any case in which the person was convicted of an offence related to the use of firearms or explosives unless the making of the order would give rise to a serious risk of injustice. The Act also creates an offence of money-laundering, and imposes obligations on banks and other financial bodies to take certain measures to prevent and assist in the detection of money-laundering. The Act provides for a procedure for the enforcement, by means of orders under Irish law, of orders made by the courts of other countries for the confiscation of property acquired by or as a result of drug-trafficking offences or conduct corresponding to an offence for which a confiscation order could otherwise be made under the Act.

The 1994 Act gives effect in Irish law to the *Convention of the Council of Europe on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990)*, the 1991 European Economic Community "Council Directive on the prevention of the use of the financial system for the purpose of money-laundering", and the relevant provisions of the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)*. The 1994 Act has been amended by the *Criminal Justice (Theft and Fraud Offences) Act 2001* to enable Financial Action Task Force measures related to the systematic reporting of certain transactions having a connection with non-cooperating countries and territories to be

given effect. Other Task Force countermeasures are already covered by the provisions of the 1994 Act. The provisions of the Act will also be extended shortly — by way of regulation — to cover non-financial activities and professions, in accordance with a second European Union Directive on money-laundering adopted in November 2001. The 1994 Act already complies with the other requirements of the directive.

The *Proceeds of Crime Act 1996* enables the High Court to freeze and ultimately dispose of property which the Court is satisfied, on the balance of probabilities, is the proceeds of crime. Provision is made to this end for interim orders, interlocutory orders, and disposal orders. Orders may be sought in respect of any property which constitutes, directly or indirectly, the proceeds of crime where the value of the property is not less than £10,000. What distinguishes this Act from the 1994 Act is that an application to the Court may be made in respect of property irrespective of whether the person holding the property has been convicted of an offence.

The *Criminal Assets Bureau Act 1996* provided for the establishment of the Criminal Assets Bureau which brings together in one agency the Garda Síochána (Irish police), tax and social welfare officials. The objectives of the Bureau are the identification of criminal assets or suspected criminal assets wherever situated, the taking of appropriate steps under the law to deprive the holders of such assets of their use or benefit, and undertaking preparatory work in relation to any appropriate proceedings.

Subparagraph (d) What measures exist to prohibit the activities listed in this subparagraph?

See (c) above.

It is also proposed that the legislation which will give effect to the International Convention for the Suppression of the Financing of Terrorism will make the provision of funds etc. in the circumstances contemplated by subparagraph (d) an offence to the extent that it is not covered by existing legislation referred to above.

Operative paragraph 2

Subparagraph (a) What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Provisions of the criminal law generally as well as those specific elements directed to offences against the State have application to paragraph 2 (a).

The *Offences Against the State Acts 1939-1998* make it an offence to be a member of an unlawful organization. Those Acts also make special provision in relation to evidentiary matters connected with the question of membership of such organizations. The *Criminal Law Act 1976* makes it an offence to recruit another person for an unlawful organization or to incite or invite another person to join an unlawful organization or to take part in or support or assist its activities. Other relevant offences include the offence of directing an unlawful organization and

training persons in the making or use of firearms or explosives for which provision was made in the *Offences Against the State (Amendment) Act 1998*.

Ireland will be legislating in 2002 to give effect to the European Union Framework Decision on Combating Terrorism. That legislation will make provision, in accordance with the terms of the Framework Decision, for such offences as knowingly participating in the activities of a terrorist group and directing such a group. It is also the intention to make provision in that legislation for any additional necessary measures directed to the activities of non-indigenous terrorist groups, including measures directed to deterring recruitment to such terrorist groups.

The possession and use of firearms and ammunition are governed by the *Firearms Acts 1925-2000*. In accordance with the legislation, it is not lawful for any person to have in his or her possession, use or carry any firearm or ammunition unless such possession, use or carriage is authorized by a firearm certificate granted under the provisions of the Acts. The current licensing policy is restrictive. There is a complete prohibition on the possession of pistols, air-pistols, revolvers, handguns and stun-guns. The licensing authorities must be satisfied that any person applying for a licence to hold a firearm does not represent a danger to the public safety or to the peace. The manufacture, importation, exportation, transport, storage and sale of explosives is likewise strictly controlled by legislation and is subject to police security requirements.

Subparagraph (b) What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other States?

The Garda Síochána have lead responsibility in relation to countering terrorist activity and as such are responsible for maintaining liaison with other police forces and agencies. Dedicated channels exist for this purpose which facilitate the exchange of information bilaterally or multilaterally as appropriate.

The Garda Síochána also participate in a variety of international bodies and forums including, in particular, Interpol, the European Police Office (Europol) and other forums established in accordance with the provisions of the Treaty on European Union.

Subparagraph (c) What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph? It would be helpful if States supplied examples of any relevant action taken.

Ireland's immigration law allows non-nationals to be refused leave to land in the State where his/her entry into or presence in the State would pose a threat to national security or would be contrary to public policy, the exclusion (by means of an exclusion order) of any non-national from the State if the Minister for Justice, Equality and Law Reform considers it necessary in the interests of national security or public policy, and for the deportation (by means of a deportation order made by the Minister for Justice, Equality and Law Reform) of non-nationals from the State in a number of specified circumstances including circumstances where the deportation would, in the opinion of the Minister, be conducive to the common good.

Regarding persons seeking asylum, please see paragraph 3 (f) below.

Subparagraph (d) What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

Irish criminal law provides for extraterritorial jurisdiction in certain circumstances in rélation to a range of offences which may be committed in the course of terrorist actions. These include offences covered by United Nations conventions directed against terrorism to which Ireland is a party and offences covered by the *European Convention on the Suppression of Terrorism*.

Ireland is a party to the *European Convention on Extradition* and has bilateral extradition arrangements with certain other countries. Orders have also been made under extradition legislation for the purposes of those United Nations conventions directed against terrorism to which Ireland is a party, thus enabling extradition to take place with other States parties in respect of the offences concerned. Ireland's extradition legislation also permits extradition to any country where the Government is satisfied that reciprocal facilities will be afforded by that country. Irish extradition law excludes from the scope of the political offence exception, for the purposes of extradition between Convention States, offences covered by the *European Convention on the Suppression of Terrorism* both generally and by reference to a scheduled list of offences.

Subparagraph (e) What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

Ireland has given effect to the following United Nations conventions directed against terrorism: the *Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)*, the *Convention for the Suppression of Unlawful Seizure of Aircraft (1970)*, the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971)*, the *Convention on the Physical Protection of Nuclear Material (1980)*, the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1988)*.

An overview of the penalties provided under the relevant legislation for this purpose is as follows:

(a) *Convention on Offences and Certain Other Acts Committed on Board Aircraft* and *Convention for the Suppression of Unlawful Seizure of Aircraft*: The criminal acts referred to in these Conventions are established as offences by section 11 of the *Air Navigation and Transport Act 1973* and punishable by a maximum sentence of imprisonment for life;

(b) *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation*: The criminal acts referred to in the Convention are established as offences by section 3 of the *Air Navigation and Transport Act 1975* and punishable by a maximum sentence of imprisonment for life;

(c) *Convention on the Physical Protection of Nuclear Material*: The criminal acts referred to in the Convention are established as offences by section 38 of the

Radiological Protection Act 1991 and punishable by a maximum sentence of imprisonment for life;

(d) *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation, complementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Aircraft*: The criminal acts referred to in the Convention are established as offences by section 3 of the *Air Navigation and Transport Act 1975* and section 51 of the *Air Navigation and Transport (Amendment) Act 1998* and punishable by a maximum sentence of imprisonment for life.

Dedicated offences under the *Offences Against the State Acts 1939-1998* also attract severe maximum penalties: membership of an unlawful organization (7 years); recruiting etc. for an unlawful organization (10 years); directing an unlawful organization (life imprisonment); training persons in the making or use of firearms etc. (10 years). The maximum penalties which apply to offences commonly associated with terrorist actions, including explosives and firearms offences, have also been pitched at the higher end of the scale for deterrence purposes.

Legislation to enable effect to be given to the remaining United Nations conventions in this field is in the course of preparation. It is intended in the coming months to introduce the necessary legislative measures for the purposes of giving effect to the *International Convention for the Suppression of the Financing of Terrorism*, the *International Convention for the Suppression of Terrorist Bombings*, the *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents*, the *Convention against the Taking of Hostages*, the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation* and the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf*.

More generally, the legislation being prepared for the purpose of giving effect to the European Union "Framework Decision on Combating Terrorism" will also take account of its provisions in relation to sanctions to be applied to terrorist acts and terrorist linked or related offences.

Subparagraph (f) What procedures and mechanisms are in place to assist other States? Please provide any available details of how these have been applied in practice.

Ireland is a party to a number of international conventions which provide mechanisms under which assistance may be provided to other States for the purposes of judicial proceedings and/or the investigation or prosecution of offences. The conventions concerned are: the *Convention of the Council of Europe on Mutual Assistance in Criminal Matters (1959)* and its additional Protocol (1978); the *United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988)*; and the *Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990)*.

Further legislation is scheduled to be enacted in 2002 to give effect to additional international instruments in the mutual assistance area emanating, in particular, from the European Union and the Council of Europe. This will serve to enhance further the range of assistance which Ireland may provide to other States.

A Central Authority has been established at the Department of Justice, Equality and Law Reform to coordinate the processing of mutual assistance requests. The Central Authority has published a guide to assist authorities abroad in making requests to Ireland for legal assistance for the purposes of criminal investigations or criminal proceedings.

Ireland's capacity to give mutual assistance is not limited to countries which are parties to the above conventions. Any requests falling outside the conventions are considered on an individual basis.

Subparagraph (g) How do border controls in your country prevent the movement of terrorists? How do your procedures for the issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc.?

Ireland has in place border controls on arrivals from all countries. There is, accordingly, an immigration presence at all ports and airports within the State which are approved for passenger traffic. A common travel area exists between Ireland and the United Kingdom for the benefit of Irish and United Kingdom citizens. Immigration officers are members of the Garda Síochána and have all of the resources of the force available to them in the exercise of their functions.

More generally, the Garda National Immigration Bureau was established by the Government in May 2000. Its core functions include the effective coordination of operational strategies and resources at points of entry into the State, the development of a comprehensive intelligence base on illegal immigration and trafficking, the strengthening of international liaison arrangements on relevant immigration issues. Within the framework of the European Union, Ireland is an active participant in dedicated mechanisms which facilitate closer operational cooperation between Member States in relation to illegal immigration. In addition, regular bilateral meetings take place between the Irish immigration authorities and immigration authorities in other States on the subject of illegal immigration to Ireland.

Ireland does not operate a national identity card system. Certain categories of non-nationals are, however, issued with registration documents in accordance with statutory requirements.

New arrangements are being put in place for the purposes of non-nationals who are required to register with the Garda Síochána where their stay exceeds three months. The existing registration document is to be replaced by a new high security electronically generated card incorporating a number of integrated security features, making it extremely difficult for criminals to abuse them through counterfeit or forgery.

Asylum seekers are issued with a temporary residence certificate in electronic card format. While this certificate is not an identity document, it contains many security features including photograph, hologram and other details etched into the card. The card itself is laminated.

Operative paragraph 3

Subparagraph (a) What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

The Garda Síochána have in place well-developed procedures for the exchange of information with other police forces and for the provision of mutual assistance.

These procedures have been developed on the basis of the experience gained by the Garda in their fight against terrorism over a number of decades. The Garda are continuing to develop these procedures in the light of the changed circumstances since 11 September and to cooperate more closely with other police forces.

Ireland is a member of Interpol and Europol. The Garda Síochána are participating actively in initiatives undertaken in the aftermath of the events of 11 September directed specifically to the fight against terrorism within the framework of both Europol and Interpol.

Subparagraph (b) What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

Please see 2 (b) above.

Within the European Union framework, Ireland will be playing an active part in the European Judicial Cooperation Unit (Eurojust) which the European Union Justice and Home Affairs Council decided in December 2001 to make fully operational. Eurojust will be composed of national prosecutors, magistrates and police officers of equivalent competence from the member States of the European Union and will have the objective of promoting and improving the coordination and cooperation between the competent authorities of member States in criminal investigations in serious crime cases.

Subparagraph (c) What steps have been taken to cooperate in the areas indicated in this subparagraph?

As indicated above, Ireland is a member of Europol and of Interpol and is fully committed to initiatives being undertaken within those frameworks directed to combating terrorism, including through Garda Síochána participation in the unit of anti-terrorist specialists established within Europol following the events of 11 September. The Garda Síochána also cooperate with the law enforcement agencies of other countries on a bilateral basis for the purposes of preventing and suppressing terrorist attacks.

Subparagraph (d) What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

Ireland has ratified the *European Convention for the Suppression of Terrorism*.

Ireland has ratified the following United Nations conventions relating to terrorism: the *Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)*; the *Convention for the Suppression of Unlawful Seizure of Aircraft (1970)*; the *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971)*; the *Convention on the Physical Protection of Nuclear Material (1980)*; and the *Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988)*.

Arrangements are being made to ratify, early in 2002, the *Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)*.

Legislation, to be introduced in early 2002, will enable Ireland to become party to all other outstanding United Nations conventions relating to terrorism, viz. the *International Convention for the Suppression of the Financing of Terrorism (1999)*, the *International Convention for the Suppression of Terrorist Bombings (1997)*, the

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973), the *Convention against the Taking of Hostages (1979)*, the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)* and the *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988)*.

Subparagraph (e) Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph.

The conventions and protocols which Ireland has ratified have been implemented in Irish law as required. See paragraph 2 (e) above for details of penalties provided.

Subparagraph (f) What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

Applicants for asylum, who otherwise qualify for refugee status, may be excluded from such status on the grounds set out in Article 1F of the *Convention relating to the Status of Refugees (1951)*. Article 1F has been incorporated into Irish refugee legislation. That legislation also provides that, in the interest of national security or public policy (ordre public), a person to whom refugee status has been granted may be required to leave the State and be detained pending such removal. Irish refugee legislation also permits the detention of any applicant for refugee status who, inter alia, poses a threat to national security or public order in the State, has committed a serious non-political crime outside the State, has not made reasonable efforts to establish his or her identity, or who has, without reasonable cause, destroyed his or her identity or travel documents or is in possession of forged identity documents.

Ongoing and appropriate liaison is maintained between the competent authorities and the Garda Síochána for the purposes of the application of refugee legislation, including countering the threat posed by terrorism.

Subparagraph (g) What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislative and/or administrative procedures which prevent claims of political motivation being recognized as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

Please see 3 (f) above. In addition, Ireland's refugee legislation provides that refugee status may be revoked in respect of persons whose presence in the State poses a threat to national security or public policy (ordre public), or in respect of persons granted refugee status on the basis of information furnished which was false or misleading in a material particular.

These arrangements are kept under review on an ongoing basis.

Ireland is also a party to the *European Convention on the Suppression of Terrorism*. Irish extradition law accordingly excludes from the scope of the political offence exception, for the purposes of extradition between Convention States, offences covered by the Convention both generally and by reference to a scheduled list of offences.

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Letter dated 21 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Liechtenstein, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-71744 (E) 040102 170102

Annex

[Original: English]

Note verbale dated 21 December 2001 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Representative of Liechtenstein to the United Nations presents her compliments to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to transmit herewith the report of Liechtenstein prepared in accordance with paragraph 6 of resolution 1373 (2001) (see enclosure).

Enclosure

Report of the Principality of Liechtenstein to the Counter-Terrorism Committee established pursuant to Security Council resolution 1373 (2001)

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Introduction

1. Liechtenstein has consistently condemned terrorism in all its forms and manifestations and regardless of the reasons that are invoked to justify it. While terrorism had become an ever growing concern for the international community even prior to 11 September, the attacks on the United States of America on that date illustrated the dimensions of the threat posed by terrorism.

2. A strong consensus emerged quickly after 11 September that international cooperation in all relevant areas was indispensable in order to bring those to justice who are responsible for terrorist attacks and to prevent terrorism, in particular international terrorism. Liechtenstein therefore expressed its support for resolution 1373 adopted by the Security Council on 28 September and is committed to its full implementation.

3. Liechtenstein is also of the view that the fight against terrorism, on the national and international levels, must be in full conformity with international human rights standards and that the promotion and protection of human rights must not fall victim to the fight against terrorism. Furthermore, the fight against terrorism can only be successful in the long term, if the international community also tackles the root causes of this scourge. Eradication of poverty, providing education, the spread of democratic political systems, the strengthening of the rule of law and designing mechanisms for the peaceful resolution of conflicts are some of the steps necessary for achieving this goal.

4. The Counter-Terrorism Committee (CTC) established pursuant to operative paragraph 6 of resolution 1373 has the task of monitoring the implementation of said resolution. Liechtenstein expresses its appreciation for the transparent manner in which the Committee has so far conducted its work, since transparency and fairness are indispensable for securing the full implementation of resolution 1373 on the global level.

5. Resolution 1373 has a strong focus on the issue of financing of terrorism. Liechtenstein fully agrees that stopping the flow of financial funds to terrorist groups is an essential element of the international fight against terrorism and is determined to ensure that its financial center is not abused for criminal purposes, including terrorist activities. It is therefore fully committed to the implementation of resolution 1373 and has the necessary instruments in place to do so. It is also of the view, however, that the implementation of the resolution must not offer an occasion to venture into other areas of international financing. It is worth noting in this context that bank secrecy as practiced in Liechtenstein does not provide protection to terrorists and their financial activities.

6. In the aftermath of 11 September, several international organizations have put a strong emphasis on combating the financing of terrorism. These efforts are most welcome, but also warrant coordination between the different bodies in order to avoid duplication and overlap. This need is already being partially addressed, e.g., through a meeting of the Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (PC-R-EV) with the Financial Action Task Force (FATF) on 12 December 2001 in Strasbourg. Effective coordination will be of great importance to ensure transparency and the intended results in suppressing the financing of terrorism.

7. The principles of best practices and benchmarking should play an important role in the efforts of the international community to suppress the financing of terrorism. International organizations in particular should provide opportunities for States to exchange their experiences and to present models which have proven successful. Benchmarking is an important element for ensuring that uniform and high levels of implementation and enforcement are observed on the global level. Liechtenstein has publicly and repeatedly called for advocating these principles at, among others, the Council of Europe on 8 November, the European Conference on 20 October, the EEA meeting of Ministers, the OSCE meeting of Ministers on 3 and 4 December 2001 in Bucharest and at the General Debate of the General Assembly of United Nations on 13 November 2001.

8. The present report, submitted in accordance with operative paragraph 6 of resolution 1373, consists of two parts. Part I gives a general overview of the contribution of Liechtenstein to the fight against terrorism, both within the framework of international organizations as well as on the bilateral and the national level. It furthermore outlines three specific initiatives that are to contribute to the full implementation of resolution 1373. In accordance with the guidance provided by the CTC, Part II constitutes the core of the report. For the sake of clarity, the questions contained in the relevant note of the Chairman dated 26 October 2001 are reproduced and answered in a clear and concise manner.

9. Annex 1 to the report contains the relevant articles of the penal code of Liechtenstein, annex 2 lists the relevant international legal instruments to which Liechtenstein is a State Party.

I. General Contribution of Liechtenstein to the Fight against Terrorism

A. International level (in particular in the framework of international organizations)

10. Liechtenstein has given careful attention to the fight against terrorism on the international level, in particular in the framework of international organizations.

United Nations

11. Liechtenstein has implemented Security Council resolutions 1267(1999) and 1333(2000) providing for measures to be taken against the Taliban. These resolutions were implemented through ordinances based on the Liechtenstein legislation for the implementation of sanctions mandated by the United Nations Security Council. Resolutions 1267 and 1333 were implemented through ordinances of 10 October 2000 (LGBl. 2000, No. 186), 16 October 2001 (LGBl. 2001 No. 165), 6 November 2001 (LGBl. 2001 No. 167) and 14 November 2001 (LGBl. 2001 No. 180). All entities and individuals contained in the consolidated list issued by the Sanctions Committee concerning Afghanistan on 26 November (i.e. list pursuant to para. 4(b) of Security Council resolution 1267 and list pursuant to para. 8(c) of Security Council resolution 1333) are thus covered by legal provisions in force.

12. Liechtenstein has ratified the majority of the legal instruments on terrorism (cf. Annex 2). It has furthermore actively participated in the elaboration of the International Convention for the Suppression of Terrorist Bombings and of the Convention on the Suppression of the Financing of Terrorism, which was signed by Liechtenstein on 2 October 2001. Liechtenstein attaches the highest priority to becoming a State Party to these two conventions at the earliest date possible. Liechtenstein has also supported the elaboration of a comprehensive convention against terrorism, which is under consideration in the ad hoc Committee established by the Sixth Committee of the General Assembly. Liechtenstein has furthermore actively participated in the work of the Third Committee on the issue of human rights and terrorism.

13. Liechtenstein is furthermore a State Party to a number of conventions that are not legal instruments aimed at combating terrorism specifically, but nevertheless make an important contribution to the fight against terrorism, such as the Rome Statute of the International Criminal Court of 17 July 1998, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 13 January 1993 and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Bacteriological (Biological) Weapons and Their Destruction of 10 April 1972. It is also a signatory of the Palermo Convention to Combat International Organized Crime of 12 December 2000.

Organization on Security and Cooperation in Europe (OSCE)

14. Liechtenstein has participated in the elaboration of the Bucharest Plan of Action for Combating Terrorism, adopted by the OSCE Ministerial Council on 4 December 2001, which is complementary to the efforts of the United Nations in this area and *inter alia* calls for the ratification of the 12 United Nations Conventions by the OSCE Participating States. Liechtenstein has also given financial support for the holding of the Bishkek International Conference on Enhancing Security and Stability in Central Asia, held on 13 and 14 December 2001.

15. On the occasion of the Ministerial Council in Bucharest, Liechtenstein presented the measures it has taken with regard to its financial center, and promoted best practices in the area of combating the financing of terrorism. It furthermore suggested an initiative on benchmarking, in particular with respect to due diligence.

Council of Europe

16. The efforts of the Council of Europe in the fight against terrorism are also supportive of and complementary to the work of the United Nations in this area. Liechtenstein actively contributes to the increased activities of the Council of Europe aimed at countering terrorism. Under the Liechtenstein chairmanship of the Committee of Ministers (May-November 2001), the Council of Europe established a Multidisciplinary Group on International Action against Terrorism (GMT) which is to review the operation of, and to examine the possibility of updating existing Council of Europe international instruments applicable to the fight against terrorism, taking into account the work under way in other fora, in particular in the United Nations.

17. Furthermore, the 24th Conference of European Ministers of Justice, held in Moscow on 4-5 October 2001, called upon all Member States of the Council to ratify the International Convention for the Suppression of the Financing of Terrorism and the Rome Statute of the International Criminal Court and to participate actively in the elaboration of a comprehensive Convention on International Terrorism.

18. In order to strengthen cooperation of the Council of Europe with the OSCE in this field, the Liechtenstein chair convened a high-level coordination meeting in Vaduz on 30 October 2001. Participants of that meeting (Chairman-in-Office, Secretary General, President of the Parliamentary Assembly of both organizations) agreed, inter alia, to undertake joint efforts in addressing the root causes of terrorism, including through multicultural and inter-religious dialogue.

19. During its 109th session on 8 November 2001 the Committee of Ministers adopted the Convention on Cybercrime, the first international treaty on criminal offences committed on the Internet and other computer networks. In the meantime the GMT has been instructed to examine the possibility of supplementing the Cybercrime Convention by a protocol on the criminalization of terrorist messages on the Internet and the decoding thereof.

20. The Council of Europe Select Committee of Experts on the Evaluation of Anti-Money Laundering Measures (PC-R-EV), a FATF-style regional body in which Liechtenstein is a full member, decided at its 8th plenary session (Strasbourg, 10-14 December 2001) to assess the anti-money-laundering regimes of its members against the FATF Special Recommendations on Terrorist Financing. From 9-11 April 2002 Liechtenstein will organize the 4th PC-R-EV Meeting of Experts on Money Laundering Typologies in Vaduz. This will provide a forum for financial and legal experts from PC-R-EV member countries, together with representatives from FATF countries, to discuss the prevailing money laundering methods, the emerging threats, and any effective countermeasures that have been developed. One of the issues to be discussed is measures against terrorist financing.

Financial Action Task Force (FATF)

21. Liechtenstein attaches particular importance to its status as a financial center. In this respect, it has worked over the past years closely with the Financial Action Task Force (FATF) of the OECD to improve its legislation and enforcement mechanisms to combat money-laundering and organized crime both on the national level and within the framework of international co-operation. In this respect, the following legislative measures have been taken over the past five years: Inclusion of money-laundering in the Criminal Code, adoption of the Due Diligence Act and adoption of a new Law on International Mutual Assistance in Criminal Matters of 2000 (LGBl. 2000 Nr. 215). Furthermore, significant steps have been undertaken to strengthen the national enforcement mechanisms and to further enhance international cooperation in this area. On 21 June 2001, the FATF deleted Liechtenstein from its list of non-cooperative countries and territories, acknowledging expressly the tightened legal provisions and the efforts to strengthen their enforcement. The cooperation and the dialogue between the FATF and the competent authorities in Liechtenstein on this and other relevant matters continue.

22. While a clear distinction must be made between money-laundering and the financing of terrorism, in particular as regards the sources of the funds in question, there are nevertheless important similarities both between the financial transactions involved and measures necessary to combat them. The FATF, at its extraordinary Plenary on the Financing of Terrorism on 29 and 30 October 2001 in Washington D.C. has therefore expanded its mission beyond money-laundering and will also focus its expertise on the world-wide efforts to combat financing of terrorism. The Special Recommendations issued at this Plenary by the FATF are currently under consideration by the competent authorities in Liechtenstein.

B. Bilateral level

23. The Liechtenstein authorities cooperate closely with their counterparts worldwide to combat terrorism. Such cooperation is extended either on the basis of international conventions such as the European Convention on Mutual Legal Assistance in Criminal Matters of 1959 or on national legislation, in particular the law on mutual legal assistance, which replaced previous legislation on the same subject.

24. In the aftermath of 11 September, funds belonging to an organization suspected of supporting terrorist activities were traced back to the Al Taqwa company, which is registered in Liechtenstein. These funds were immediately frozen by the competent authorities, and judicial assistance in this matter was extended to the authorities of neighboring Switzerland. The Liechtenstein law enforcement authorities also cooperated with their counterparts in the United States of America regarding this case, and all requested information was provided to the competent authorities of the United States. An audit is currently being conducted regarding the Asat Trust, the fiduciary that was in charge of the accounts of the company in question. This audit will be concluded as soon as possible.

C. National level

25. While Liechtenstein has no specific anti-terrorism legislation, its penal code contains a wide range of provisions which cover offences committed by terrorists. These provisions are listed in Annex 1.

26. The economy of Liechtenstein is dominated by the commercial and industrial sectors; the financial sector is, however, also an important component of the Liechtenstein economy, accounting for 28% of the Gross Domestic Product. It is the financial sector that is most affected by the measures taken in response to 11 September, and the Government is therefore giving highest priority to the implementation of the aspects concerning financing of terrorism.

27. In light of this situation, the following authorities are most involved in dealing with the events of 11 September 2001:

- the Office of the Public Prosecutor;
- the Liechtenstein Police;
- the Financial Intelligence Unit (FIU);
- the Due Diligence Unit.

28. The Government decision of 31 October 2001 (RA 1/2972-7400) has brought these authorities together into a task force (Terrorist Financing Coordination Group) under the guidance of the Financial Intelligence Unit. This coordination is of decisive importance for the operative implementation of the measures to combat financing of terrorism. The Office of the Public Prosecutor has initiated domestic criminal proceedings in connection with Asat Trust and Al Taqwa.

29. The Liechtenstein Police follows the intense exchange of information through Interpol and bilaterally, in particular with the competent authorities of the neighboring countries. At the end of September 2001, the FIU sent a list with 386 names for purposes of clarification to all financial institutions in the country. Following this sensitization and various accounts in the press, six Suspicious Transaction Reports (STR) were submitted to the FIU by the end of November. Examinations of the transactions are ongoing, in particular with the various partner FIUs. The Due Diligence Unit is undertaking an in-depth examination of a financial institution regarding possible involvement in terrorist activities or networks.

30. The Due Diligence Act requires fiduciaries and lawyers in Liechtenstein to reveal all beneficial owners and business relationships to the Liechtenstein banks by 31 December 2001. As the competent oversight authority, the Due Diligence Unit verifies the fulfillment of these obligations. Especially with regard to profiles of business relationships, the Liechtenstein law therefore goes beyond the law of other known financial centers. Thanks to these measures, it is possible to determine persons suspected of terrorism more accurately and to examine suspicious transactions.

D. Initiatives

31. Liechtenstein is committed to continuing the fight against terrorism in a decisive manner; in this context, Liechtenstein is undertaking to support the fight with three initiatives. In addition to these initiatives, please refer to paragraph 7, detailing the international "best practices" and "benchmarking" initiatives.

32. The Government intends to make an expert available to the CTC. A financial expert is being sought who has international banking experience and who is familiar with the implementation procedures in Liechtenstein. The expert should be selected in the winter of 2002 and, after a short training period, be made available to the CTC.

33. The Government is convinced that in particular the procedure for granting asylum must be examined in-depth in connection with combating terrorism. A balance must be carefully struck between efficient counter-terrorism in accordance with Security Council Resolutions 1269 and 1373 and the strict application of guaranteed human rights and procedural guarantees to which Liechtenstein is obligated under international law. Liechtenstein ratified the European Convention on Human Rights in 1982 and is State Party to a number of international legal instruments in this area. The Government will examine this context in detail and develop guidelines for the competent authorities by the end of March 2002.

34. Liechtenstein has many tools at its disposal to criminally prosecute terrorist activities; there is, however, no terrorism law *per se* or a corresponding terrorism provision in the penal code.

35. Any legal amendments or additions must be harmonized in detail with possible interdependencies and international obligations, in particular in relationship to Switzerland. By the end of January 2002, the Government will commission an analysis of the legal framework and recommendations for improvements in

the area of counter-terrorism, taking into consideration the existing international obligations, in particular Security Council resolution 1373, and the ratified international treaties and conventions.

II. Implementation of Security Council Resolution 1373

A. Paragraph 1

Sub-paragraph a)

What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to questions on 1(b) to (d)?

36. Liechtenstein does not tolerate, in any form, the support of terrorist activities from its territory. Bank secrecy only applies if it has not been suspended through a court order (search of premises, examination of witnesses, confiscation, etc.) in domestic proceedings or when rendering mutual legal assistance. Bank secrecy in no way poses an obstacle to combating the financing of terrorism. The new law on mutual legal assistance has made legal assistance pursuant to requests by foreign authorities easier and more practical. The procedure has been accelerated through a modification of the subject-matter jurisdiction at the administrative level. In contrast to the old law, which granted 12 means of appeal against a decision to grant legal assistance, the new law offers only four. The request for legal assistance by Swiss authorities in the Al Taqwa case was, for instance, granted within just a few days, and the documents were transmitted directly to Bern.

37. Cooperation of the financial institutions with the authorities is efficient and fast. The Financial Intelligence Unit (FIU) is the authority with primary responsibility. The FIU is also responsible for international information exchange at the administrative level, to the extent that financing of terrorism is at issue and the information exchange is not undertaken through police channels (Interpol).

38. Annex 1 lists all relevant penal code articles. The following provisions should be emphasized: In accordance with § 12 of the Liechtenstein Penal Code (Strafgesetzbuch; StGB), all participants in a criminal act are treated as perpetrators. Thus, not only the person who actually commits the act in question (in this context, the terrorist act) is held responsible, but also every participant (such as every financial institution) who has directed another person to commit the act, or who has contributed to the commission of the act in any way. In addition, § 97a of the Criminal Procedure Code (Strafprozessordnung; StPO) provides for preventive measures. This entails, *inter alia*, that assets to which a criminal organization has the right of disposal shall be subject to a judicial prohibition of disposal. § 165 StGB, which criminalizes money laundering, should also be mentioned. The definition of this crime builds on the corresponding provisions in other countries. The maximum penalty is three years imprisonment; if money laundering is committed as a member of a criminal organization, five years imprisonment may be imposed (§ 278a para. 2). § 278a stipulates the punishability of criminal organizations and therefore also of terrorist organizations.

39. The Due Diligence Act (Sorgfaltspflichtgesetz; SPG) is an administrative law that subjects financial institutions to a broad spectrum of obligations. Of particular importance is the obligation to "know your customer", i.e., to reveal the beneficial owner and to create a profile of the business relationships. The law also requires all financial institutions to report suspicions to the FIU, if the financial institution suspects its client to be connected to a criminal organization or to have been involved in money laundering or in an act facilitating money laundering. Parallel to the reporting requirement, the assets to which the report pertains are automatically frozen for up to 10 working days after submission of the report. This legal preventive framework has so far resulted in the measures listed in paragraphs 36 to 39.

40. Liechtenstein will continue to participate actively in the international efforts to suppress terrorist financing. A particular emphasis will be placed on practical cooperation. As indicated in paragraph 20, Liechtenstein will host the fourth typology seminar of the PC-R-EV. This seminar will provide the opportunity to engage in

a workshop examining the financing of terrorism in-depth, with a special focus on initiating criminal proceedings pursuant to intelligence exchange. This theme was confirmed at the plenary assembly of the PC-R-EV in Strasbourg on 13 December 2001. The Government will assign the competent authorities the task of implementing the eight special recommendations of the FATF concerning counter-terrorism (decided at the plenary assembly of the FATF in Washington, D.C., on 29/30 October 2001).

Sub-paragraph b)

What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

41. See also answers to the question in sub-paragraph a). The following provisions of the Penal Code are particularly relevant:

§ 126a: Destruction of data
§ 131a: Theft of data
§ 133: Embezzlement
§ 134: Misappropriation
§ 146: Fraud
§ 147: Serious fraud
§ 148: Commercial fraud
§ 153: Breach of fiduciary duties
§ 156: Fraudulent bankruptcy
§ 165: Money laundering
§ 223 - § 225: Forgery and falsification of documents

42. As already indicated in paragraph 35, the Government will commission an expert study to analyze the existing legal framework and to recommend improvements.

Sub-paragraph c)

What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of any relevant action taken.

43. A Liechtenstein law on measures concerning economic transactions with foreign states provides the basis for the implementation by Government ordinance of all sanctions adopted by the United Nations Security Council. In the case of financial sanctions, such as on the basis of Security Council resolutions 1267 and 1333, the list of persons and entities approved by the Security Council is made legally binding through publication in the enactment of the decree and in the Landesgesetzblatt (legal gazette).

44. As a consequence, all assets of the listed entities are automatically frozen, and the financial institutions administering these assets are required to notify the Government regarding the frozen assets immediately. The Terrorist Financing Coordination Group then coordinates further steps. The Office of the Public Prosecutor decides whether to undertake criminal proceedings.

45. In the case of entities not appearing on the UN lists, the financial institution is required to submit a Suspicious Transaction Report (STR) to the FIU if the applicable legal provisions (Art. 9 para. 2 of the Due Diligence Act) are fulfilled. In such cases, the affected assets are automatically blocked for a period of 10 working days upon submission of the STR; the Office of the Public Prosecutor is the authority competent to decide whether further blocking of assets is legally justified. Six STRs have been submitted under this procedure so far, all of which were forwarded by the FIU to the Office of the Public Prosecutor. They are currently being examined.

Sub-paragraph d)

What measures exist to prohibit the activities listed in this sub-paragraph?

46. The measures and examples are listed in sub-paragraphs a) through c). They have so far proven to be efficient and fast. As mentioned in para. 35 above, the Government will furthermore commission a study on the existing legal framework and on possible improvements thereon.

B. Paragraph 2

Sub-paragraph a)

What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

47. The following provisions of the Penal Code should be emphasized in this context: § 165 (Money laundering), § 278a (Criminal organizations), § 279 (Armed associations), § 280 (Accumulation of weapons), § 320 (Supporting a party in a foreign armed conflict). See also sub-paragraph d) and the initiatives introduced in Part I.

Sub-paragraph b)

What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

48. According to the FIU ordinance, the FIU fulfills a proactive, early warning function in the area of money laundering and also in the area of terrorist financing. For these purposes, the relevant international information exchange channels (Egmont Group, Secure Web, Memorandum of Understanding, see paragraphs 28, 29, 37, 40 and 45) are available. A special unit of the police for combating organized crime and commercial crime (EWOK) is, *inter alia*, responsible for preliminary investigations to ascertain indications of criminal activity.

49. The Government regards efficient measures against terrorist financing as a priority element in the fight against terrorism. The Government decision of 31 October 2001 created the Terrorist Financing Coordination Group, which guarantees an efficient and uncomplicated coordination of all measures in this area under the guidance of the FIU. Depending on the issue, the Coordination Group will be supplemented with officials from the Foreign Ministry and the Government. Due to its relevant expertise, the FIU has been indicated to the CTC as contact point in Vaduz for the implementation of Resolution 1373.

Sub-paragraph c)

What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.

50. The small size of the country (160 km2; population 32,673) turns out to be an advantage with regard to refugee questions and therefore also with regard to relevant aspects of counter-terrorism: It is practically impossible to be present in the country without the knowledge of the authorities. An important point in

ensuring that asylum seekers are not involved in terrorist activities is the precise determination of the person's identity and previous place of residence.

51. According to Art. 42 of the Refugee Law, a foreign person is not granted asylum if there are reasons for exclusion from refugee status. In particular, refugee status is not given if there are serious grounds to suspect that the person has committed a crime against peace, a war crime, or a crime against humanity according to international conventions. The legal status of refugee is also not given if the person committed a serious crime of common law outside of the host country before the person was accepted as a refugee, or if the person is responsible for acts against the purposes and principles of the United Nations.

52. Art. 52 of the Refugee Law provides that the Government shall revoke asylum or refugee status if a refugee has obtained asylum or refugee status through false testimony or through concealing essential facts, if reasons contained in Art. 1(c)(1)-(6) of the Convention relating to the Status of Refugees of 28 July 1951 apply, if refugees threaten the security of Liechtenstein, or if they constitute a public danger due to prior conviction for a crime.

53. Art. 14 of the Liechtenstein law on mutual legal assistance provides that extradition is permissible for criminal acts based on political motivations or goals, if the criminal character of the act outweighs the political character, taking into consideration all the circumstances of the individual case.

54. In the case of asylum seekers without documentation, there is a general problem with regard to the clarification of these two main questions. In such cases, clarifications are undertaken on the basis of local knowledge of the authorities or speech analyses (in collaboration with Swiss authorities). In addition, systematic fingerprinting is undertaken and compared with Liechtenstein and Swiss police systems. If, after thorough hearings, doubts remain regarding the identity and place of origin, further information sources are used (international organizations, the International Committee of the Red Cross, etc.). So far, no request for extradition in cases of terrorism has been made.

55. If no application for asylum is submitted within 10 days of entry, the application will not be considered and immediate deportation may be ordered, as long as these measures are in conformity with international legal obligations, including the relevant provisions of the European Convention on Human Rights and the customary international legal principle of non-refoulement. These measures ensure that persons who have been present in the country for a longer period of time cannot prevent extradition by applying for asylum.

Sub-paragraph d)

What legislation of procedures exist to prevent terrorists acting from your territory against other states or citizens? It would be helpful if States supplied examples of any relevant action taken.

56. See Annex 1 and, in particular, the following provisions of the Liechtenstein Penal Code: § 279 (Armed associations) and § 280 (Accumulation of weapons) as well as § 320 (Supporting a party in a foreign armed conflict). The possible need for additional measures is being examined.

Sub-paragraph e)

What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply examples of any convictions obtained and the sentence given.

57. See Annex 1 and the answer to question 2(b). So far, no persons have been accused of terrorist crimes.

Sub-paragraph f)

What procedures and mechanisms are in place to assist other states? Please provide any available details of how these have been used in practice.

58. The measures and mechanisms are indicated in sub-paragraph 1(a) and sub-paragraph 2(c). Liechtenstein works together with other states on the basis of bilateral mutual legal assistance agreements, relevant multilateral treaties, and in particular on the basis of the law on mutual legal assistance, which enables legal assistance to all states with which no specific mutual legal assistance agreements have been concluded.

59. Liechtenstein emphasizes that further networking at the international level is essential to counter proactively the threat of terrorist acts. Necessary measures include further mutual legal assistance agreements and partnerships, but especially also the exchange of experience in the form of best practices. This should take place particularly in the framework of international organizations, as well as through participation in operative workshops and bilateral working meetings. The former are undertaken by the Ministry of Justice and Ministry for Foreign Affairs, the latter by the FIU and the Liechtenstein Police.

60. Liechtenstein has signed the Convention against International Organized Crime of 12 December 2000 and has ratified the Rome Statute of the International Criminal Court of 17 July 1998. The implementing legislation for cooperation with the International Criminal Court is under development.

Sub-paragraph g)

How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery, etc.?

61. Since 1924, Liechtenstein has shared a customs union with Switzerland. The border controls are undertaken by the Swiss authorities. Liechtenstein passports and identity documents fulfill all requirements concerning protection against forgery, data security, and international verifiability. Police cooperation in this area is ensured through close cooperation with the corresponding Swiss bodies (especially with the Conference of Cantonal Police Commanders KKPKS). Furthermore, there are numerous regional working groups with the police authorities of the neighboring countries Austria, Germany, and Switzerland (e.g., Lake Constance Police Association, Police Concordat of Eastern Switzerland, Conference of the Police Presidents of the European Lake Constance Region). In addition, there is close contact with the Swiss police authorities and the Swiss justice department on both a personal and data system level.

C. Paragraph 3

Sub-paragraph a)

What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

62. The active participation of the FIU in the Egmont Group has ensured a quick and efficient exchange of information at this level (cf. paragraphs 28, 29, 37, 40, 45 and 48). Police cooperation is likewise noteworthy (paragraphs 29 and 61). Also, see the discussion regarding cooperation with Switzerland in the customs and currency union, as well as the efforts of the Government in this regard.

Sub-paragraph b)

What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

63. See explanations regarding legal and police cooperation, in particular under sub-paragraph 3(a).

Sub-paragraph c)

What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

64. See answer under sub-paragraph 3(a).

Sub-paragraph d)

What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

65. Liechtenstein already is a State Party to seven of the twelve Conventions and Protocols concluded within the United Nations. In addition, the International Convention for the Suppression of the Financing of Terrorism was signed on 2 October 2001 (see Annex 1). Liechtenstein is also a State Party to the European Convention on the Suppression of Terrorism of 27 January 1977.

66. Liechtenstein is committed to becoming a State Party to all relevant international instruments to combating terrorism. Highest priority for the imminent future is attached to becoming a State Party to the International Convention for the Suppression of Terrorist Bombings and to the Convention for the Suppression of the Financing of Terrorism. Both conventions will be taken up by the Government in the course of 2002.

Sub-paragraph e)

Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this sub-paragraph.

67. Liechtenstein practices a monist system according to which international treaties are self-executing, if their provisions are suitable to be applied automatically as law. If necessary, provisions of international treaties may also be implemented through legislative amendments. Security Council resolutions 1269 and 1368 are likewise self-executing. See also the discussion of mutual legal assistance and other information exchange possibilities under sub-paragraph 1(a).

Sub-paragraph f)

What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status? Please supply examples of any relevant cases.

68. See detailed discussion in sub-paragraph 2(c).

Sub-paragraph g)

What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures which prevent claims of political motivation being recognised as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

69. See detailed discussion in sub-paragraph 2(c). The following important statutory provisions should be emphasized:

70. According to Art. 42 of the Refugee Law, a foreign person is not granted asylum if there are reasons for exclusion from refugee status. In particular, refugee status is not given if there are serious grounds to suspect that the person has committed a crime against peace, a war crime, or a crime against humanity according to international conventions. The legal status of refugee is also not given if the person committed a serious crime of common law outside of the host country before the person was accepted as a refugee, or if the person is responsible for acts against the purposes and principles of the United Nations. This provision thereby also covers terrorist crimes.

71. Art. 52 of the Refugee Law provides that the Government shall revoke asylum or refugee status if a refugee has obtained asylum or refugee status through false testimony or through concealing essential facts, if reasons contained in Art. 1(c)(1)-(6) of the Convention relating to the Status of Refugees of 28 July 1951 apply, if refugees threaten the security of Liechtenstein, or if they constitute a public danger due to prior conviction for a crime.

72. Art. 14 of the Liechtenstein law on mutual legal assistance provides that extradition is permissible for criminal acts based on political motivations or goals, if the criminal character of the act outweighs the political character, taking into consideration all the circumstances of the individual case.

Appendices

73. The appendices contain the relevant provisions of the Liechtenstein penal code and the international conventions against terrorism to which Liechtenstein is a State Party or which it has signed. The full text of the Liechtenstein penal code or of other relevant documentation can be transmitted to the Committee upon request. Several of the legislative texts referred to in the report can be found at www.pafl.li/akt_lgbl.htm., in German, English and French. Liechtenstein legislation can also be found at www.gesetze.li, German version only. For ease of reference, a list of the contact points for the implementation of Security Council resolution 1373 is also included; this list has previously already been communicated to the Committee.

Appendix I

Provisions of the Liechtenstein Penal Code concerning Terrorism

§ 12 Treatment of all participants in the criminal act as perpetrators

§ 15 Punishability of attempt

§ 33 Aggravating circumstances
- multiple or continued commission of crimes
- previous conviction
- inducement to commission of crime
- leading capacity in planning or inciting crime
- racism, xenophobic or other particularly despicable motives
- insidious, cruel, or painful commission of crime
- taking advantage of another person's defenselessness or helplessness

§ 64 Crimes committed abroad that shall be punished regardless of the laws where the crime was committed
- kidnapping for purposes of blackmail (§ 102), delivery to a foreign power (§ 103), founding or support of a criminal organization (§ 278a(1))
- air piracy (§ 185) and crimes against person, life or freedom connected to air piracy, intentional endangerment of the safety of air travel (§ 186)
- participation in a criminal act committed in Liechtenstein (§ 12)
- money laundering (§ 165, § 278a(2))
- other criminal acts, the prosecution of which Liechtenstein is obligated to undertake even when committed abroad, regardless of the criminal law where the crimes were committed

§ 75 Murder
- ten to twenty years imprisonment, life imprisonment

§ 83 - § 87 Battery, serious battery, battery leading to lasting injury, battery leading to death, intentional serious battery
- fine, imprisonment up to ten years

§ 99 Deprivation of liberty
- imprisonment up to ten years

§ 102 Kidnapping for purposes of blackmail
- six months to twenty years imprisonment

§ 103 Delivery to a foreign power
- five to twenty years imprisonment

§ 105, § 106 Coercion, serious coercion
- imprisonment up to five years

§ 107 Dangerous threat
- imprisonment up to three years

§ 125 Damage to property, serious damage to property
- fine, imprisonment up to five years

§ 126a Destruction of data
- fine, imprisonment up to five years

§ 131a Theft of data
- fine, imprisonment up to three years

§ 133 Embezzlement
- fine, imprisonment up to five years

§ 134 Misappropriation
- fine, imprisonment up to three years

§ 144, § 145 Blackmail, serious blackmail
- six months to ten years imprisonment

§ 146, § 147, § 148 Fraud, serious fraud, commercial fraud
- fine, imprisonment up to ten years

§ 153 Breach of fiduciary duties
- fine, imprisonment up to ten years

§ 156 Fraudulent bankruptcy
- six months to ten years imprisonment

§ 165 Money laundering
- fine, imprisonment up to five years

§ 171, § 173, § 176 Intentional endangerment through nuclear energy or radioactivity, intentional endangerment through explosives, intentional endangerment of the public
- one year to ten years imprisonment

§ 175 Preparation of a crime using nuclear energy, radioactivity, or explosives
- six months to five years imprisonment

§ 178, § 180 Intentional endangerment of humans through transmissible diseases, intentional endangerment through air or water pollution
- fine, imprisonment up to three years

§ 185, § 186 Air piracy, intentional endangerment of the safety of air travel
- one year to twenty years imprisonment, life imprisonment

§ 188 Disparagement of religious teachings
- fine, imprisonment up to six months

§ 189 Disruption of a religious act
- fine, imprisonment up to two years

§ 223-§ 225 Forgery or falsification of documents
- fine, imprisonment up to five years

§ 278 Formation of a criminal gang
- imprisonment up to three years

§ 278a Founding, support or financing of a criminal organization
- six months to ten years imprisonment

§ 279, § 280 Armed associations, accumulation of weapons
- imprisonment up to three years

§ 320 Supporting a party in a foreign armed conflict
- imprisonment up to two years

Appendix II

International terrorism conventions to which Liechtenstein is a State Party

Convention on Offences and Certain Other Acts Committed on Board Aircraft, done at Tokyo on 14 September 1963 (entered into force on 4 December 1969)

Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on 16 December 1970 (entered into force on 14 October 1971)

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971 (entered into force on 26 January 1973)

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973 (entered into force on 20 February 1977)

International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979 (entered into force on 3 June 1983)

Convention on the Physical Protection of Nuclear Material, done at Vienna on 3 March 1980 (entered into force on 8 February 1987)

Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988 (entered into force on 6 August 1989)

European Convention on the Suppression of Terrorism, concluded at Strasbourg on 27 January 1977 (entered into force on 4 August 1978)

Signed (2 October 2001), not yet ratified: *International Convention for the Suppression of the Financing of Terrorism*, adopted by the General Assembly of the United Nations on 9 December 1999

Appendix III

Liechtenstein contact points for the implementation of Security Council resolution 1373

Permanent Mission in New York:

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